SCOTTSDALE AIRPORT ADVISORY COMMISSION MEETING NOTICE AND AGENDA



Wednesday, October 5, 2011 6:00 p.m.





AIRPORT ADVISORY COMMISSION

Gunnar Buzzard, Chair John Washington, Vice Chair Ken Casey William Schuckert

William Bergdoll Michael Goode Stephen Ziomek

Call to Order

Roll Call

Pledge of Allegiance

Aviation Director's Report

The public body may not propose, discuss, deliberate or take legal action on any matter in the summary unless the specific matter is properly noticed for legal action.

Approval of Minutes

REGULAR MEETING August 10, 2011

Public Comment

Citizens may address the members of the Airport Advisory Commission during Public Comment. This "Public Comment" time is reserved for citizen comments regarding <u>non-agendized</u> items. However, Arizona State law prohibits the Airport Advisory Commission from discussing or taking action on an item that is not on the prepared agenda.

Persons with a disability may request a reasonable accommodation by contacting Theresa Smith at Airport Administration (480-312-2321). Requests should be made 24 hours in advance or as early as possible to allow time to arrange accommodation. For TTY Users, the Arizona Relay Service (1-800-367-8939) may contact the Aviation Department (480-312-2321).

CONSENT AGENDA ITEMS 1-2

How the Consent Agenda Works: The Commission may take one vote to act on all items on the Consent Agenda, or may remove items for further discussion. Every interested citizen will have one opportunity to speak on any or all Consent Agenda items. If you wish to speak on these items, please complete a Request to Speak card for each topic you wish to address. You will be given three minutes to speak on all the Consent Agenda items you wish to address. Additional time for multiple agenda items will be at the Chairman's discretion.

After all speakers have finished, the Commission will decide which items to remove for additional discussion and/or presentation from staff. Items <u>not</u> removed from the Consent Agenda will be considered in one motion. Items removed for clarification or discussion by the Commission will be acted on as appropriate.

- Discussion and Possible Action Regarding Application for Airport Aeronautical Business for Caliber Jet, LLC to conduct Aircraft Charter Services Staff contact: Shannon Johnson, Management Analyst, 312-8475, shjohnson@scottsdaleaz.gov

REGULAR AGENDA BEGINS ON FOLLOWING PAGE

REGULAR AGENDA

ITEMS 3-20

How the Regular Agenda Works: The Commission takes a separate action on each item on the Regular Agenda. If you wish to address the Commission regarding any or all of the items on the Regular Agenda, please complete a Comment Card for each topic you wish to address and submit it to Aviation Staff. Speakers will be given three minutes to speak per item. Additional time <u>may</u> be granted to speakers representing two or more persons. Cards for designated speakers and the persons they represent must be submitted together. **Comment cards must be submitted before public testimony has begun on any Regular Agenda or Public Hearing item.**

- 3. Election of Vice Chair Staff contact: Gary P. Mascaro, Aviation Director, 312-7735, gmascaro@scottsdaleaz.gov
- 4. Discussion and Possible Action to recommend approval of 6-GP-2011 Zocallo Residential Staff contact: Brad Carr, Senior Planner, 312-7713, bcarr@scottsdaleaz.gov
- 5. Discussion and Possible Action to recommend approval of 10-ZN-2011 Zocallo Residential Staff contact: Brad Carr, Senior Planner, 312-7713, bcarr@scottsdaleaz.gov
- Discussion and Possible Action to recommend approval of 7-GP-2011 Scottsdale Airpark Community
 Staff contact: Brad Carr, Senior Planner, 312-7713, <u>bcarr@scottsdaleaz.gov</u>
- 7. Discussion and Possible Action to recommend approval of 11-ZN-2011 Scottsdale Airpark Community
 Staff contact: Brad Carr, Senior Planner, 312-7713, bcarr@scottsdaleaz.gov
- 8. Discussion and Possible Action to recommend approval of 8-GP-2011 CrackerJax Staff contact: Brad Carr, Senior Planner, 312-7713, bcarr@scottsdaleaz.gov
- Discussion and Input Regarding an update to the Scottsdale Air Fair Staff contact: Kate O'Malley, Aviation Planning & Outreach Coordinator, 312-8482, komalley@scottsdaleaz.gov
- 10. Discussion and Possible Action to recommend Adoption of Resolution No. 8843, authorizing contract 2011-121-COS with Ciao Baby Catering, LLC d/b/a Zulu Cafe to enter into a restaurant lease agreement at Scottsdale Airport Terminal Building Staff contact: Shannon Johnson, Management Analyst, 312-8475, shiohnson@scottsdaleaz.gov
- 11. Discussion and Input Regarding the Process of Basing an Aircraft in the Airpark Contact: Ken Casey, Commissioner, 312-2321, kgkc@pinnacleaviation.com
- 12. Discussion and Input Regarding a Potential Economic Impact Study for the Airport/Airpark Contact: Chair Buzzard, 312-2321, gwb@vme.com
- 13. Discussion and Possible Action Regarding Airport Advisory Commission By-Laws

 Pursuant to the By-Laws of the Scottsdale Airport Advisory Commission, Section IV, Rules and

 Amendments, Paragraph 401. Amended Procedures.

 Staff contact: Gary P. Mascaro, Aviation Director, 312-7735, gmascaro@scottsdaleaz.gov

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- 14. Discussion and Input Regarding the Airport Commission Liaison Program Contact: Chair Buzzard, 312-2321, gwb@vme.com
- 15. Discussion and Input Regarding Monthly Operations Reports for August and September 2011 Staff contact: Chris Read, Airport Operations Manager, 312-2674, cread@scottsdaleaz.gov
- Discussion and Input Regarding Quarterly Noise Complaint Summary Report Staff contact: Kate O'Malley, Aviation Planning & Outreach Coordinator, 312-8482, <u>komalley@scottsdaleaz.gov</u>
- 17. Discussion and Input Regarding Monthly Financial Reports for July and August 2011 Staff contact: Shannon Johnson, Management Analyst, 312-8475, shiphason@scottsdaleaz.gov
- 18. Discussion and Input Regarding the Marketing, Community and Pilot Outreach Programs Staff contact: Kate O'Malley, Aviation Planning & Outreach Coordinator, 312-8482, komalley@scottsdaleaz.gov
- 19. Discussion and Input Regarding Status of Aviation Items to City Council Staff contact: Gary P. Mascaro, Aviation Director, 312-7735, gmascaro@scottsdaleaz.gov
- 20. Discussion and Possible Action to Modify the Airport Advisory Commission Meeting Schedule and Commission Item Calendar Staff contact: Gary P. Mascaro, Aviation Director, 312-7735, gmascaro@scottsdaleaz.gov

Future Agenda Items

Discussion and Possible Action regarding Commissioner requested future agenda items.

Adjournment



APPROVAL OF MINUTES

Meeting Date: 10/05/11

Staff Contact: Gary P. Mascaro,

Aviation Director

Phone: (480) 312-7735

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Approval of Minutes – Regular Meeting August 10, 2011

Attachment(s): 1. Draft minutes of the August 10, 2011 Regular Meeting

Action taken:



DRAFT

SCOTTSDALE AIRPORT ADVISORY COMMISSION PUBLIC MEETING Scottsdale Airport Terminal Lobby 15000 N. Airport Drive, Scottsdale, AZ

August 10, 2011

MINUTES

PRESENT:

Gunnar Buzzard, Chairman

John Washington, Vice-Chairman

Ken Casey Michael Goode William Schuckert

ABSENT:

William Bergdoll

Lois Yates

STAFF:

Clifford Frey, Assistant City Attorney Shannon Johnson, Management Analyst

Gary P. Mascaro, Aviation Director

Kate O'Malley, Planning & Outreach Coordinator

Chris Read, Airport Operations Manager

OTHERS:

Joe Abramson, GPG

Nic Cherches, Fox Air

Brent DeRaad, Executive Vice President, SCVB

Blair Parker, MB Aviation

Tommy Walker, Scottsdale Air Center

CALL TO ORDER

Chairman Buzzard called the meeting to order at 5:01 p.m.

ROLL CALL

A formal roll call confirmed the presence of Commissioners as noted above.

AVIATION DIRECTOR'S REPORT

Mr. Gary Mascaro, Aviation Director, announced that Mr. Bill Withycombe, Western Pacific Regional Administrator of the FAA, will be visiting Scottsdale Airport on September 14.

APPROVAL OF MINUTES

1. Approval of Minutes

Regular Meeting: July 13, 2011

Vice Chairman Washington made a motion to approve the regular meeting minutes of the July 13, 2011 meeting. Commissioner Goode seconded the motion, which carried by a vote of five (5) to zero (0). Commissioners Bergdoll and Yates were absent.

PUBLIC COMMENT

Mr. Tommy Walker of Scottsdale Air Center expressed thanks to the Commission, staff, and Aviation Director for their hard work on the regulatory rewrite.

Mr. Blair Parker of MB Aviation complained that Airport bureaucracy hinders things from being done efficiently. He cited that a new tenant could not receive his gate clicker because of a delay in processing paperwork. During the delay he was obliged to pay to leave his aircraft with one of the FBOs. Yet he was ineligible for a visitor's pass to get into the Airpark.

He noted that his company has used a mobile mechanic for years, as do many other operators. Earl Long, the individual that MB Aviation uses, has been working around the Airport for 30 years, but now the Airport is not allowing this to continue, which he feels is unfair. Now they have the expense and inconvenience of using the FBOs or taking the aircraft to Gateway. In discussions Mr. Parker said that Mr. Chris Read, Airport Operations Manager, indicated this is because of FAA regulations. However he opined that the minimum requirements look as though they were written by the FBOs, because the mechanics are required to have a hangar and an office. He felt this was stifling competition.

REGULAR AGENDA

Chairman Buzzard noted that Commissioner Yates' term on the Commission ends this month. He wanted to acknowledge her contributions over the past six years, and displayed a plaque which will be presented to her in appreciation.

1. Annual Update from the Scottsdale Convention and Visitors Bureau

Mr. Brent DeRaad, Executive Vice President of the Scottsdale Convention and Visitors Bureau, noted that tourism in Scottsdale is finally picking up. They are optimistic that this trend will continue. Scottsdale and Paradise Valley were the top U.S. hotel market in March.

He discussed the Proposition 200 bed tax funds, noting that the CVB now receives 50 percent of the bed tax monies, down from 70 to 80 percent in the past. The other 50 percent is available to the City to invest in special events or tourism related capital projects. With an annual budget raised to \$10 million, the CVB is able to do more marketing. The City's share was partly used for events around Fiesta Bowl, which led to ESPN broadcasting from downtown Scottsdale throughout the week. City Council has approved the expansion of the Equidome at WestWorld, which will be completed with bed tax funds. The projects benefit not only the tourism industry but also the people of Scottsdale.

Mr. DeRaad said he and Ms. O'Malley will be attending the NBAA conference in Las Vegas in October.

He commended them on increasing the takeoff weight limit to 100,000 pounds, which will help attract long haul travelers. The new U.S. Visit Customs service will also help attract desirable visitors from Canada and Mexico. He announced that Arizona is bidding for Super Bowl 2015. The only other invited bidder is Tampa Bay. They hope to know within a couple of months whether the Arizona bid is successful.

In response to a question from Vice Chairman Washington, Mr. DeRaad described how visits are analyzed and what the CVB is doing to attract even more Canadian visitors. Nearly all of last year's increase can be attributed to Canadian visitors.

Commissioner Casey recalled the difficulties experienced at the Airport on the Monday after the 2008 Super Bowl. He asked what is being done to reassure the event organizers that this will not recur. Mr. DeRaad said the Chair of the Super Bowl host committee and with the lead staff person are aware that the FAA was the primary contributor to the 2008 issues. This message will be relayed to the owners.

Chairman Buzzard said the improvements cited by Mr. DeRaad and that Scottsdale Air Center now has access to DCA should make the Airport a much more attractive destination for travelers from Washington, D.C. Mr. DeRaad said the CVB has a sales manager dedicated to the association market in the mid-Atlantic area. He noted the new Scottsdale Airport marketing brochure, which is a joint effort of the CVB and Airport staff.

2. Discussion and Input regarding the Airport Restaurant

Ms. Shannon Johnson, Management Analyst, provided an update. She issued an RFP on July 28. The closing date is August 29. There has been significant interest. Two individuals in particular have advised her that they are preparing bid materials. A pre-bid conference will take place on August 11.

Commissioner Casey commented that there was little interest until an article appeared in the newspaper. He wondered what they could do to increase interest in the future. Mr. Mascaro said the change in the economy is responsible for the increased interest in his opinion. He assured the Commission that they will be asking people why they are now interested. About 20 have called Ms. Johnson.

Commissioner Goode inquired about the lack of bids the last time the RFP was issued. Ms. Johnson recalled that one person indicated they would bid but in the event did not. She tried to find out why this was but was unable to obtain that information.

Mr. Mascaro said the key to success is that the Airport is statutorily required to put the restaurant out for bids. As a result, the bid process is truly the negotiation process. The Airport is open to negotiation.

Commissioner Schuckert recalled his past experience with the restaurant RFP, opining that this process is not the most appropriate for leased real estate. He encouraged staff to look at making some modifications. For instance, APS requires a deposit of \$8,500 for five years, which is a discouragement to potential restaurant operators. The rules about signage are also too restrictive for a successful restaurant. He asked who chooses the successful bidder if several parties bid.

Mr. Mascaro thanked Commissioner Schuckert for his comments, saying he was unaware of the APS deposit. The goal is to bring in an entity to support the Airport and the Community. The restaurant does not make money for the Airport. It is an amenity. He agreed that issuing an RFP for a restaurant is a challenge, but their hands are tied by the current Code. The City Manager is looking at flexibility, but that would be a future Council decision. If they receive multiple bids, a panel will be set up to evaluate them. This is a Council decision, with recommendation from the Commission. Mr. Mascaro said he hopes to have a lease to present to the Commission by the next meeting. They want to expedite this so the operator benefits from the busy season.

Commissioner Casey asked what will happen at tomorrow's meeting. Ms. Johnson said she will begin by reviewing the RFP, take questions from the floor, then conduct a tour of the restaurant. She has already shown about 10 people around the restaurant premises and is prepared to continue doing that as necessary after the pre-bid conference. Commissioner Casey opined that over the long term, a successful restaurant will bring additional funds into the Airport.

Mr. Joe Abramson, Chief Pilot of GPG, recalled holding company Christmas parties at the restaurant. A restaurant is needed at the Airport. He agreed with the previous speaker's remarks about bureaucracy.

Mr. Nic Cherches, Chief Pilot for Fox Air and MK30, said that a restaurant is needed to encourage camaraderie. He hoped that the successful bidder will have an interest in aviation.

3. Discussion and Possible Action Regarding Airport Advisory Commission Bylaws

Citing a request at the last meeting to permanently change the meeting start time to 5:00 p.m., Mr. Mascaro explained that they would need to vote to amend the bylaws accordingly.

Commissioner Goode moved to change the Commission's meeting time from 6:00 p.m. to 5:00 p.m. Vice Chairman Washington seconded the motion.

Chairman Buzzard indicated he is not in favor of this change as a 6:00 p.m. start time makes it easier for citizens to attend. In response to a suggestion from Commissioner Casey, he said they could not solicit input from the audience because no one has submitted a comment card.

Vice Chairman Washington said he had suggested changing the start time because of the length of some meetings, although meetings have been more concise recently.

Commissioner Schuckert said he would be in favor of starting meetings at 6:00 as long as there is a possibility to have an earlier start time if the agenda is long. Commissioner Goode said meeting times must be consistent. An earlier start time could be better for staff.

Commissioner Goode and Vice Chairman Washington voted in favor of the motion. Chairman Buzzard and Commissioner Schuckert voted against it. Commissioner Casey abstained from voting. The motion failed so the meeting time will remain unchanged at 6:00 p.m.

Chairman Buzzard said the bylaws currently prohibit the Chair from making motions. At times this has been a frustration to him.

Vice Chairman Washington made a motion to amend the Airport Advisory Commission bylaws to allow the Chair to make a motion.

Mr. Mascaro clarified that although the bylaws give flexibility on some specific items, they otherwise default to Roberts Rules.

Commissioner Goode seconded the motion, which carried by a vote of five (5) to zero (0). Commissioners Bergdoll and Yates were absent.

Vice Chairman Washington noted that according to the bylaws, if they allow public comment to exceed three minutes per speaker, they should vote to permit this, but the Commission has not been doing this. He asked whether they need to vote at each meeting on this. Mr. Mascaro responded that he would check with the City Attorney's Office. Chairman Buzzard said they have been following similar practices to City Council.

Chairman Buzzard drew the attention of the Commission to section 207 regarding absence from meetings. In response to a question from Commissioner Casey, Mr. Mascaro said this rule is not standard; other boards and commissions have different rules. This will be addressed in the board and commission review. Chairman Buzzard

expressed pride that attendance has not been an issue for the Commission as Commissioners arrive on time, prepared for the meeting with insightful questions.

4. Discussion and Possible Action to Recommend to City Council the Adoption of Resolution No. 8781, Authorizing Construction Bid Award No. 11PB060 to the Lowest Responsive Bidder to Construct Phase 3 of the Airport Parking Apron Reconstruction Project.

Airport Operations Manager Mr. Chris Read recalled the update he had provided at the last meeting on Airport reconstruction. The bids for Phase 3 are closed. He drew their attention to a map of the project area and a spreadsheet showing the bid tabulations.

For Phase 3, staff are presenting two funding scenarios. The first is a typical scenario using grants from the FAA and ADOT and matching monies from the Aviation Fund. The breakdown is 95 percent from the FAA and 2.5 percent each from ADOT and the Aviation Fund.

The second scenario uses a grant from ADOT to fund 90 percent of the project and the Aviation Fund would pay the remaining 10 percent. In the first scenario the Aviation Fund would spend about \$44,000 and in the second scenario the cost to the Aviation Fund would be approximately \$176,000.

Obviously the first scenario is preferable. The second scenario was drafted because with the recent FAA shutdown, their grant has not yet been paid to the Airport. Because of uncertainty about FAA funding, last year staff requested the ADOT 90 percent funding as a backup plan. They plan to continue on course and if the FAA funding comes through before construction begins they will use it. If not, they will follow the second scenario.

Mr. Read explained that although three bids were received, one company withdrew their bid. The low bidder is Banicki Construction at \$1,768,632.90. Vice Chairman Washington asked whether the motion will need to incorporate language about the funding options. Mr. Read said the motion is simply to recommend accepting the Banicki Construction bid.

Vice Chairman Washington moved to recommend to City Council that it adopt Resolution No. 8781 authorizing construction bid award No. 11PB060 for Airport Apron Reconstruction Phase 3 to Banicki Construction in the amount of \$1,768,632.90. Commissioner Goode seconded the motion, which carried by a vote of five (5) to zero (0). Commissioners Bergdoll and Yates were absent.

5. Discussion and Input regarding the Airport Commission Liaison Program

Chairman Buzzard asked the Commissioners whether the current areas of Air Fair; safety; security; Scottsdale Airport regulations and standards; Planning, Development, and Redevelopment; community communications and public relations are still appropriate.

Vice Chairman Washington said he is willing to help out in any way and that this could be discussed outside of the meeting. Chairman Buzzard recalled that the idea of the Airport Commission liaison program is for individual Commissioners to keep an eye on the various topics. When he receives inquiries he refers them to the specific Commissioner.

Chairman Buzzard reported that he has secured a commitment for a flyby by the 161st Refueling Wing and a static display at the Air Fair.

Commissioner Goode reported that the bar program was disbanded as of August 2. One senator is trying to reinstate it. With regard to Bye Aviation, he just learned that the company is undergoing restructuring. Manufacturing will likely take place in Denver. However Bye has two other projects that might locate in the Airpark. The LASP is in the budget process. He has heard that the weight limits may be higher than originally proposed and that a trusted pilot program will be implemented. He does not anticipate any additional security requirements at the airport level.

Vice Chairman Washington reported that Christina Hansen has been assigned to a different beat by the Arizona Republic and Ofelia Madrid will be covering the Airport.

6. Discussion and Input regarding Monthly Operations Reports for July 2011

Mr. Read presented the monthly operations reports for July 2011. Now that Phase 1 of the reconstruction is completed Landmark Aviation is using it and they are very happy.

7. Discussion and Input Regarding Monthly Financial Reports for June 2011

Ms. Johnson noted that revenue through June is about six percent below the forecast. However she emphasized that these are preliminary year-end figures subject to adjustment. The main reason revenues were lower than forecast was the 11-day runway closure last July. In response to a question by Vice Chairman Washington, Ms. Johnson said the runway closure was not scheduled when the forecast was drawn up.

Expenses for FY 2010/11 appear to be right on target.

Chairman Buzzard requested that in future reports indicate that the fiscal year runs from July through June.

Noting a jump of 28 percent in expenses over June of the previous year, Chairman Buzzard asked what accounted for that. Ms. Johnson said operations has gone to a new uniform policy so clothing was purchased.

8. Discussion and Input Regarding the Marketing, Community, and Pilot Outreach Programs

Planning and Outreach Coordinator Ms. Kate O'Malley announced that the Airport was featured in <u>Airport Revenue News</u> this month, highlighting their community outreach efforts. She is sending a copy to all the Commissioners. The Aircraft Noise Information brochure has been printed and is being used to inform residents and realtors of the impact of living close to an airport.

It is now possible to complete applications for permits online through the website.

Planning for the Air Fair continues. Tickets will be on sale within a couple of weeks. Currently staff is focusing on event parking, obtaining sponsorships, and recruiting aircraft. They plan a light show with tethered hot air balloons on the Saturday evening.

Staff continues to monitor property development in the Airport area through the Planning Department. In July three new projects within the Airport influence area were submitted to the Planning Department. None of these negatively impact the Airport.

In terms of community outreach, in July Ms. O'Malley said they exhibited at the annual realtor expo. Staff has expanded the youth outreach program and is now available for classroom visits as well as tours of the Airport. In July they visited a summer camp for elementary schoolchildren.

Ms. O'Malley reminded the Commission that if noise complaints are received during the hours of the voluntary curfew, aviation staff will work to contact the aircraft operator and remind them of the policy. Two letters were sent out in July. She confirmed to Vice Chairman Washington that she also followed up with the residents who complained to assure them that staff is taking action.

Commissioner Casey inquired about the possible impact on aviation of the Air Fair. Ms. O'Malley said they are working closely with the tower. The Airport will be open during the Air Fair but there will be some brief closures for particular displays.

9. Discussion and Input Regarding Airport and Airpark Aeronautical Business Permit Additions, Cancelations, and Revocations.

Ms. Johnson stated that three aeronautical business permits were issued for Tempus Jets, Borden Properties, and Lex Capital.

10. Discussion and Input Regarding Status of Aviation Items to City Council

Mr. Mascaro noted that the proposed amendments to the Airport's primary guiding documents is on the consent agenda for August 23. Approval of the construction bid award will be on the consent agenda on August 29.

11. Discussion and Possible Action to Modify the Airport Advisory Commission Meeting Schedule and Commission Item Calendar

Noting that the only potential major topic for the September agenda could be an update from the AZBAA, Chairman Buzzard suggested that after a busy summer, the Commission could consider canceling the September meeting. Discussion ensued regarding a conflict between the NBAA meeting and the Commission meeting on October 12. Mr. Mascaro suggested that they might cancel the September meeting, meet on October 12, and agendize the AZBAA update for the November meeting.

Vice Chairman Washington moved to cancel the September meeting of the Airport Advisory Commission. Seconded by Commissioner Goode, the motion carried by a vote of five (5) to zero (0). Commissioners Bergdoll and Yates were absent.

COMMISSION SUMMARY OF CURRENT EVENTS

Commissioner Goode inquired about the need to attend the City Council meeting on August 23. Mr. Mascaro said it is up to the Commissioners. He will attend prepared to answer any questions should they arise. He noted that the regulatory rewrite is on the consent agenda. Chairman Buzzard said he plans to observe and that Aviation Director Mascaro is the best person to answer any questions.

Chairman Buzzard said he is very proud to serve with everyone on this Commission. In the recent review of all the boards and commissions, the Mayor cited the Airport Advisory Commission as one of the best examples for other boards and commissions. Also the fact that the Glendale Airport Commission came to observe one of their recent meetings attests to the Commission's strengths. He thanked each Commissioner for their efforts.

Vice Chairman Washington said good staff support is also crucial to the success of the Commission

FUTURE AGENDA ITEMS

Commissioner Casey moved that a discussion on possibilities of streamlining Airport access and making the process more user friendly for any new tenants and customers to Scottsdale Airport be agendized for the October meeting. Vice Chairman Washington seconded the motion.

Mr. Mascaro pointed out that the Commission had this discussion at their February meeting. Chairman Buzzard said that the issues raised by this evening's speakers were specific to access for through the fence operations and maintenance.

Commissioner Casey said staff has worked hard since February to implement the changes made then. He felt they should look again to see if there are further improvements that could be made. Mr. Read's presentation in February was great. They would not need that level of detail in the October presentation. The number one complaint he hears is about the red tape.

Chairman Buzzard suggested that he discuss these issues with Mr. Read and Mr. Mascaro later. He could then ask Mr. Mascaro to request an agenda item if Commissioner Casey felt it was necessary, and Chairman Buzzard would be happy to include it for October. Commissioner Casey argued that the Commission needs to hear from the customers who use the Airport on a daily basis, as he is only aware of some of the issues. Vice Chairman Washington concurred that if a stakeholder is coming to the Commission to complain, they owe it to him to investigate.

A discussion ensued on whether to agendize a discussion on maintenance per Mr. Parker's remarks. Mr. Mascaro confirmed to Chairman Buzzard that these are two completely separate topics and he can discuss maintenance issues offline with individual Commissioners if they wish.

The motion to discuss Airport access for new tenants and customers carried by a vote of five (5) to zero (0). Commissioners Bergdoll and Yates were absent.

Vice Chairman Washington made a motion to discuss an economic impact study for the Airport at the next meeting. Commissioner Schuckert seconded the motion, which carried by a vote of five (5) to zero (0). Commissioners Bergdoll and Yates were absent.

ADJOURNMENT

With no further business to discuss, being duly moved and seconded, the meeting adjourned at 6:43 p.m.

Respectfully submitted,

AV Tronics, Inc. DBA AVTranz



Ratification of Airport Aeronautical Business Permit for Appearance Group, Inc.

Consent Agenda Item No.: 1

Meeting Date: 10/05/11

Staff Contact: Shannon Johnson,

Management Analyst

Phone: (480) 312-8475

ACTION

Ratification of Airport Aeronautical Business Permit for Appearance Group, Inc. to conduct mobile aircraft washing services at the Scottsdale Airport.

PURPOSE

Pursuant to Scottsdale Revised Code, Chapter 5, Article 3, commercial aeronautical activity conducted at the Airport requires a valid Airport Aeronautical Business Permit. In addition, the Airport Minimum Operating Standards outlines the process for obtaining such a permit. Appearance Group, Inc. has requested an Airport Aeronautical Business Permit to conduct mobile aircraft washing services at the Scottsdale Airport.

APPLICANT(S)

Donald Henry Appearance Group, Inc. 9424 E. 37th St. N., Ste. 100 Wichita, KS 67207

KEY CONSIDERATIONS

Appearance Group, Inc. has provided the appropriate documentation as required in the Airport Minimum Operating Standards.

Attachment(s): 1. Completed Airport Aeronautical Business Permit

Action taken:



SCOTTSDALE AIRPORT AERONAUTICAL BUSINESS PERMIT

(Required to conduct commercial aeronautical activity on the airport)

Business or activity to be conducted (Check all that	apply):
☐ Aircraft Charter Services	Aircraft Washing Service
☐ Aircraft Leasing or Rental Services	☐ Hangar/Shade Leasing Services
☐ Aircraft Maintenance and Repair Services	☐ Flight Training Services
☐ Aircraft Management	☐ Fixed Base Operator
☐ Aircraft Sales Services	☐ On-Airport Rental Car Concession
☐ Aircraft Mobile Maintenance and Repair Services	
Specialized Aircraft Repair Services (list service)	
Specialized Commercial Flying Services (list service	es)
Other	
These activities are limited to the airport by ordinance. Pleafurther information on each type of business.	ase refer to the Airport Minimum Operating Standards for
Applicant: Appearance Group, Inc Authorized Representative: Donald Henry	
Authorized Representative: Donald Henry	Title: CEO
Business Address: 9424 E, 37th St., N	1., Ste. 100
City, State, Zip: Wichita, Ks 672	26
Billing Address: P.O. Box 782585	
City, State, Zip: Wichita, Ks 6720	7
Phone: (work): 316-945-257 (fax): 316-943-0820	(emergency): 316-210-3597
Email Address: dhenry @ appearance que	
The Applicant hereby requests the above action(s) from aeronautical activities on the airport and/or in the airpark, at the following:	
→ FEE PAYMENT: The Applicant agrees to pay all applicable in all required fee including late fees, interest and penalties without the content of the property of the part	
→ PERMIT LIMITATIONS: This permit may not be assigned of listed above.	or transferred, and is limited to only the approved business activity
★ INFORMATION CHANGES: The Applicant shall notify the of any change to the information provided on this form.	Airport Administration Office in writing within fifteen (15) days
↑ INDEMNIFICATION: The Applicant shall indemnify the city	pursuant to Chapter 5 of the Scottsdale Revised Code.
↑ COMPLIANCE WITH THE LAW: The Applicant shall com	nply with all applicable laws, ordinances, rules and regulations.
The undersigned representative certifies he/she is authorized to f this permit.	to sign for the business and acknowledges receipt of a copy
Hard Band	7/18/11
Authorized Representative's Signature	Date signed

***** Airport Administra	ation Use Only **************
Indicate documents pro	ovided to applicant
City Code - Chapter Five	Airpark Minimum Operating Standards
Airpark Rule and Regulations	☐ Airport Wingspan Restriction Map
Airport Rules and Regulations	☐ Receipt for Payment of Fees
Airport Minimum Operating Standards	965
Attach copies of appli	cable documents
☐ Lease/License agreement	FAA Certificates
☐ Sublease agreement	✓ Certificates of Insurance
☐ Airport Driver/Vehicle Permit	☐ Business/Privilege Tax License
**************************************	*************
-Includes minos falor	ic/cabinetry repairs.
ABP#2011-197	
	2
Approved by Airport Director (or designee) AIRPORT ADVISORY COMMISSION'S COMMI	Date signed



Ratification of Airport Aeronautical Business Permit for Caliber Jet LLC

Consent Agenda Item No.: 2

Meeting Date: 10/05/11

Staff Contact: Shannon Johnson,

Management Analyst

Phone: (480) 312-8475

ACTION

Ratification of Airport Aeronautical Business Permit for Caliber Jet, LLC to conduct aircraft management and aircraft charter services at the Scottsdale Airport.

PURPOSE

Pursuant to Scottsdale Revised Code, Chapter 5, Article 3, commercial aeronautical activity conducted at the Airport requires a valid Airport Aeronautical Business Permit. In addition, the Airport Minimum Operating Standards outlines the process for obtaining such a permit. Caliber Jet, LLC has requested an Airport Aeronautical Business Permit to conduct aircraft management and aircraft charter services at the Scottsdale Airport.

APPLICANT(S)

Peter Wood Caliber Jet, LLC 159 Crocker Park Blvd., Ste 400 Westlake, OH 44145

KEY CONSIDERATIONS

Caliber Jet, LLC has provided the appropriate documentation as required in the Airport Minimum Operating Standards.

Attachment(s): 1. Completed Airport Aeronautical Business Permit

2. Vicinity Map

Action taken:

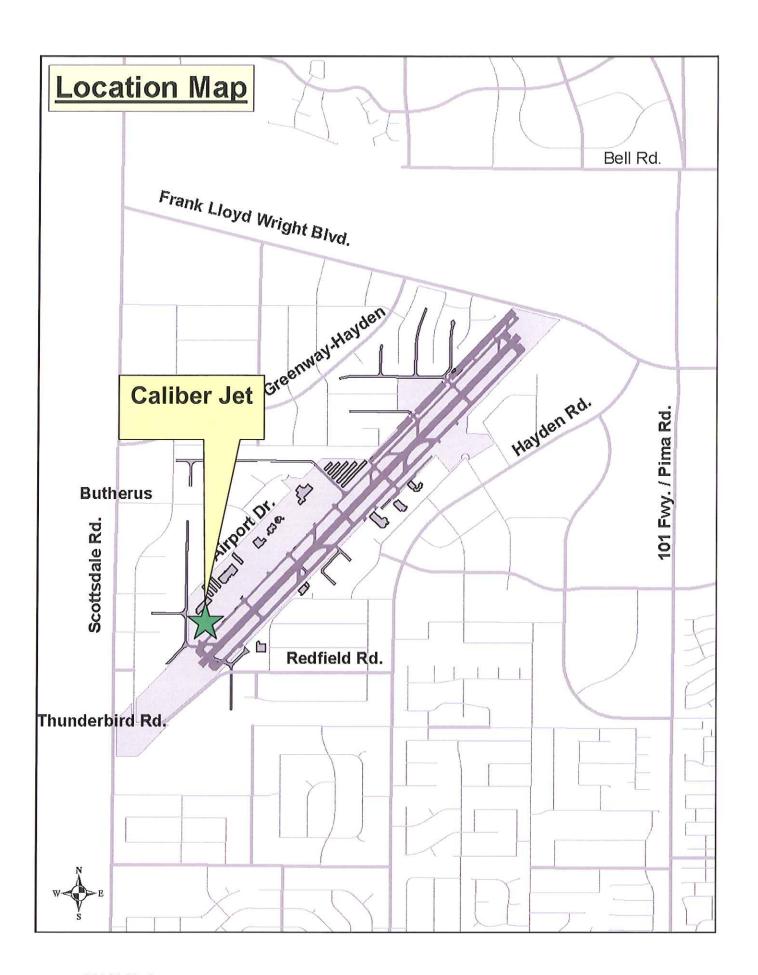


SCOTTSDALE AIRPORT AERONAUTICAL BUSINESS PERMIT

(Required to conduct commercial aeronautical activity on the airport)

Business or activity to be conducted (Check all that	apply):
Aircraft Charter Services	☐ Aircraft Washing Service
☐ Aircraft Leasing or Rental Services	☐ Hangar/Shade Leasing Services
☐ Aircraft Maintenance and Repair Services	☐ Flight Training Services
	☐ Fixed Base Operator
☐ Aircraft Sales Services	☐ On-Airport Rental Car Concession
☐ Aircraft Mobile Maintenance and Repair Services	*
☐ Specialized Aircraft Repair Services (list service)	
☐ Specialized Commercial Flying Services (list services	es)
Other	* ************************************
These activities are limited to the airport by ordinance. Pleafurther information on each type of business.	ase refer to the Airport Minimum Operating Standards for
Applicant: Caliber Jet LLC	
Applicant: Caliber Jet LLC Authorized Representative: Peter Wood	Title: General Manager
Business Address: 159 Crocker Park Blud,	51e400,
City, State, Zip: Westlake ON 44145	
Billing Address:Samt	· · · · · · · · · · · · · · · · · · ·
City, State, Zip:	
Phone: (work): 440-470-4000 (fax): 440-348-2401	(emergency): 440-279-3088
Email Address: pwood @ calibactet. com	<u> </u>
The Applicant hereby requests the above action(s) from aeronautical activities on the airport and/or in the airpark, the following:	and in consideration of this request being granted agrees to
★ FEE PAYMENT: The Applicant agrees to pay all applicable all required fee including late fees, interest and penalties without the penalties of the penalties.	monthly fees on time by the twentieth (20) day of each month, and ut deduction of any kind.
↑ PERMIT LIMITATIONS: This permit may not be assigned listed above.	or transferred, and is limited to only the approved business activity
↑ INFORMATION CHANGES: The Applicant shall notify the of any change to the information provided on this form.	e Airport Administration Office in writing within fifteen (15) days
↑ INDEMNIFICATION: The Applicant shall indemnify the cit	y pursuant to Chapter 5 of the Scottsdale Revised Code.
	mply with all applicable laws, ordinances, rules and regulations.
The undersigned representative certifies he/she is authorized of this permit.	to sign for the business and acknowledges receipt of a copy
THU	4-25.11
Authorized Representative's Signature	Date signed
and the second s	. D. 1. 200 C. 41-1- 17 95760

******************* Airport Admi	nistration Use Only ***************
Indicate documen	ts provided to applicant
City Code - Chapter Five	☐ Airpark Minimum Operating Standards
☐ Airpark Rule and Regulations	☐ Airport Wingspan Restriction Map
Airport Rules and Regulations	☐ Receipt for Payment of Fees
Airport Minimum Operating Standards	
Attach copies of a	applicable documents
Lease/License agreement	FAA Certificates
Sublease agreement	Certificates of Insurance
☐ Airport Driver/Vehicle Permit	Business/Privilege Tax License
**************************************	****************
APB#2011-198	
	R R R
Approved by	9/9/11
Airport Director (or designee)	Date signed
AIRPORT ADVISORY COMMISSION'S COM	MENTS
to the second se	At 6
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Election of Vice Chair

Agenda Item No.: 3

Meeting Date: 10/05/11

Staff Contact: Gary P. Mascaro,

Aviation Director

Phone: (480) 312-7735

ACTION

Pursuant to By-laws of the Scottsdale Airport Advisory Commission, Section 101. Elections, "Should the Vice-Chair office be vacated, a new election shall be held at the next regular Commission meeting to elect a Vice-Chair."

PURPOSE

To elect a new Vice Chair in accordance with the By-Laws of the Scottsdale Airport Advisory Commission.

KEY CONSIDERATIONS

Section 103, Vice Chair, of the By-laws of the Scottsdale Airport Advisory Commission states, "The Vice Chair shall be the Acting Chair and shall perform all duties of the office whenever the Chair is absent."

Action Taken:



Discussion and Possible Action to recommend approval of 6-GP-2011 (Zocallo Residential)

Agenda Item No.: 4

Meeting Date: 10/05/11

Staff Contact: Brad Carr, AICP

Senior Planner

Phone: (480) 312-7713

ACTION

Discussion and Possible Action to recommend approval of 6-GP-2011, a Non-Major General Plan Amendment to the Greater Airpark Character Area Plan Future Land Use Map from Airpark Mixed Use (AMU) to Airpark Mixed Use-Residential (AMU-R) on a 6.42 +/- acre site located at 15440 N. Greenway-Hayden Loop.

PURPOSE

To provide the Airport Advisory Commission information on the proposed Non-Major General Plan Amendment for a site located within the Airport Influence Area, as it relates to the 14 CFR Part 150 Noise Compatibility Study.

KEY CONSIDERATIONS

- Proximity of proposed Airpark Mixed Use-Residential designation to Scottsdale Airport and other Airpark Mixed Use-Residential designated properties
- Proposed site located within the AC-1 area of the Airport Influence Zones
- Proposed site located outside of the 55 DNL noise contour
- Scottsdale Airport 14 CFR Part 150 Noise Compatibility Study Land Use Measure #2, #4, and #6 are triggered
- Airport Overlay Zone Matrix permits proposed use with conditions
- Potential increase of workforce housing in the Airpark
- Implementation of the General Plan's mixed-use land use designation for this area of the Airpark

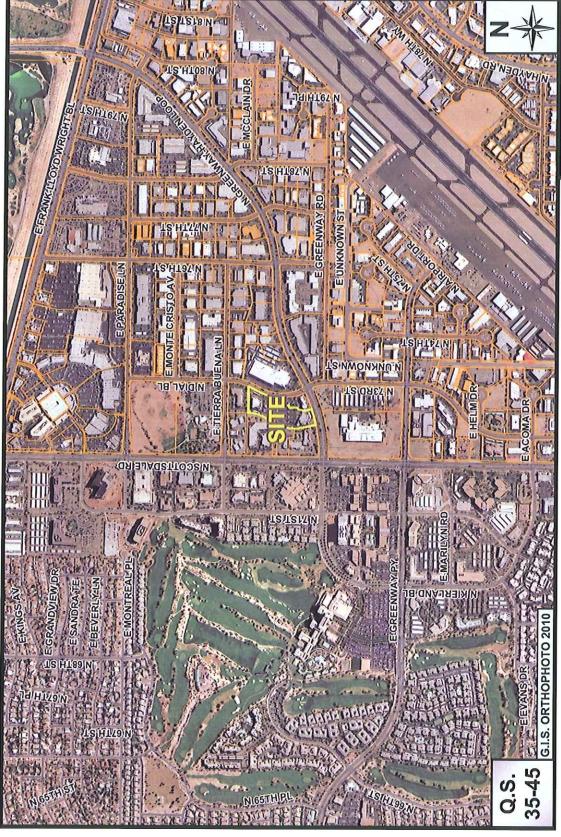
OTHER RELATED POLICIES, REFERENCES

- 2010 Greater Airpark Character Area Plan
- Scottsdale General Plan 2001, as amended
- 2005 Scottsdale Airport 14 CFR Part 150 Noise Compatibility Study
- 2009 Airpark Economic Analysis and Forecast by Gruen Gruen + Associates

Attachment(s): 1. Vicinity Map

- 2. Greater Airpark Character Area Plan Future Land Use Map Proposed
- 3. Part 150 Airport Influence Zones Map
- 4. Part 150 Noise Contours Map
- 5. Part 150 Helicopter Arrival/Departure Routes Map

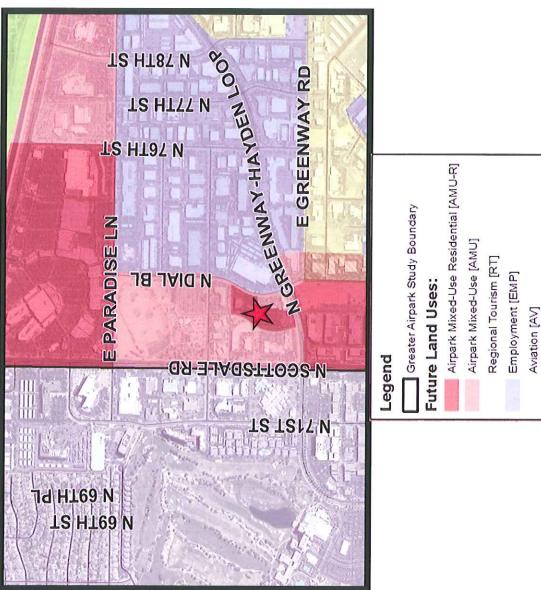
Action Taken:



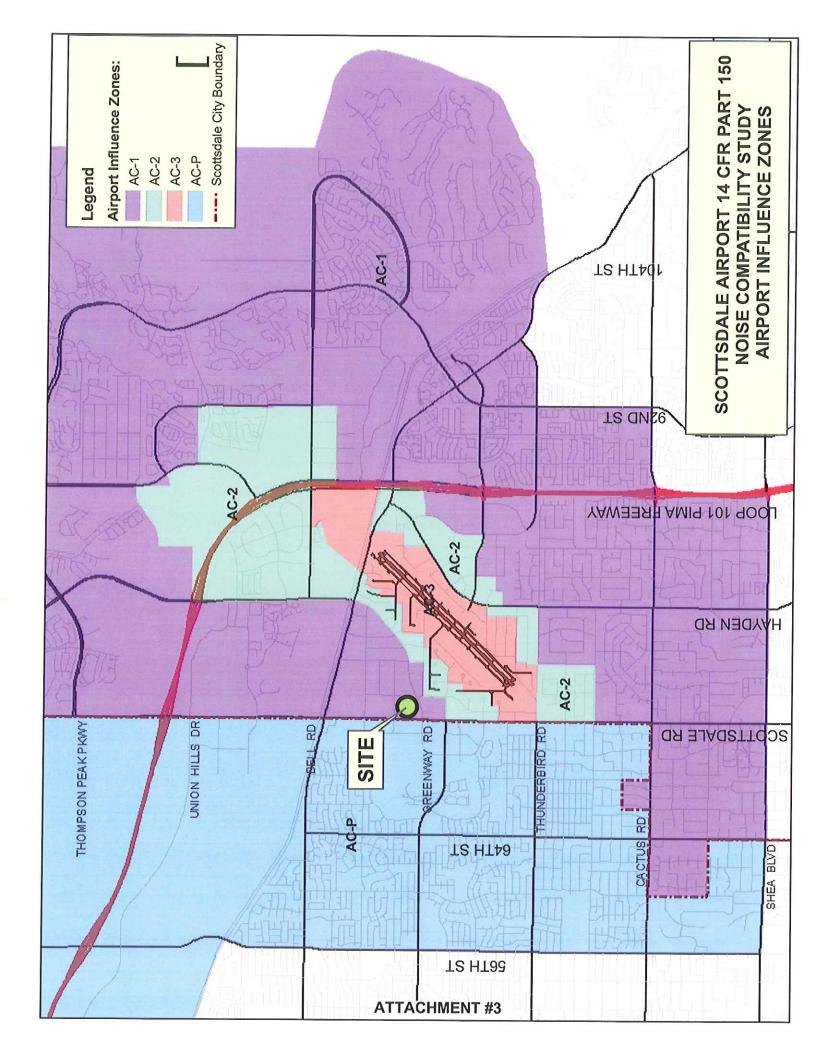
Aviation/Airpark Mixed-Use [AV/AMU]

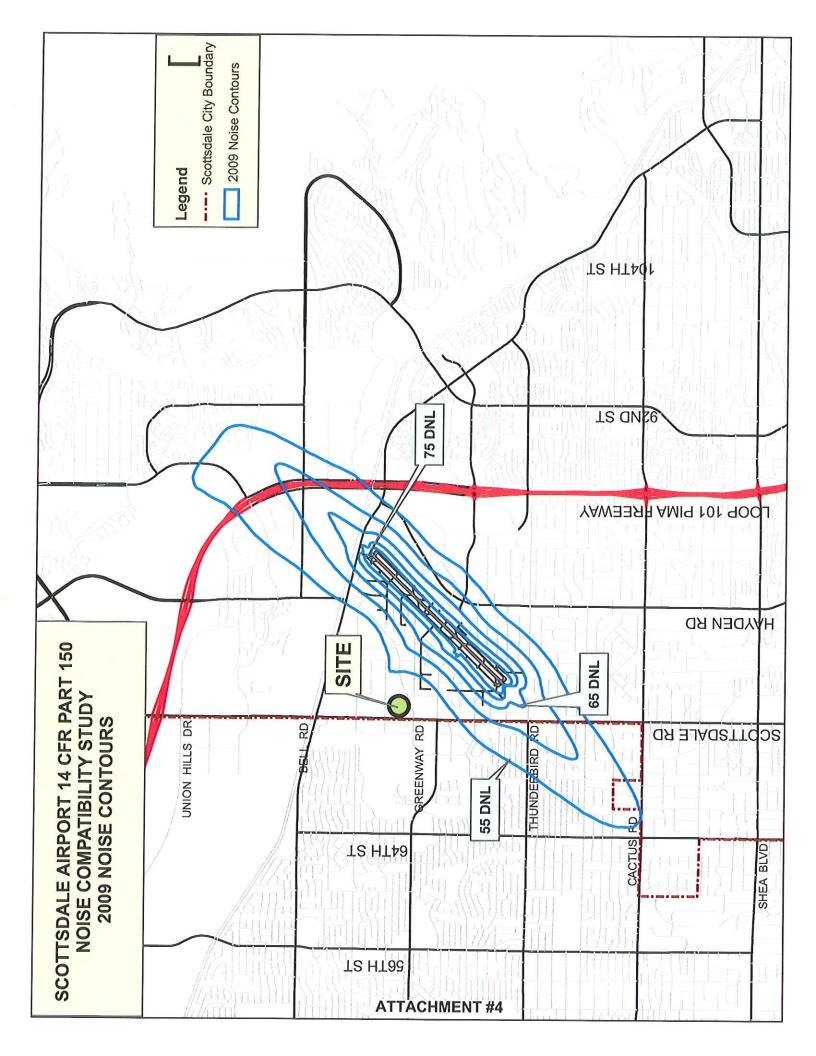
Open Space [O-S]

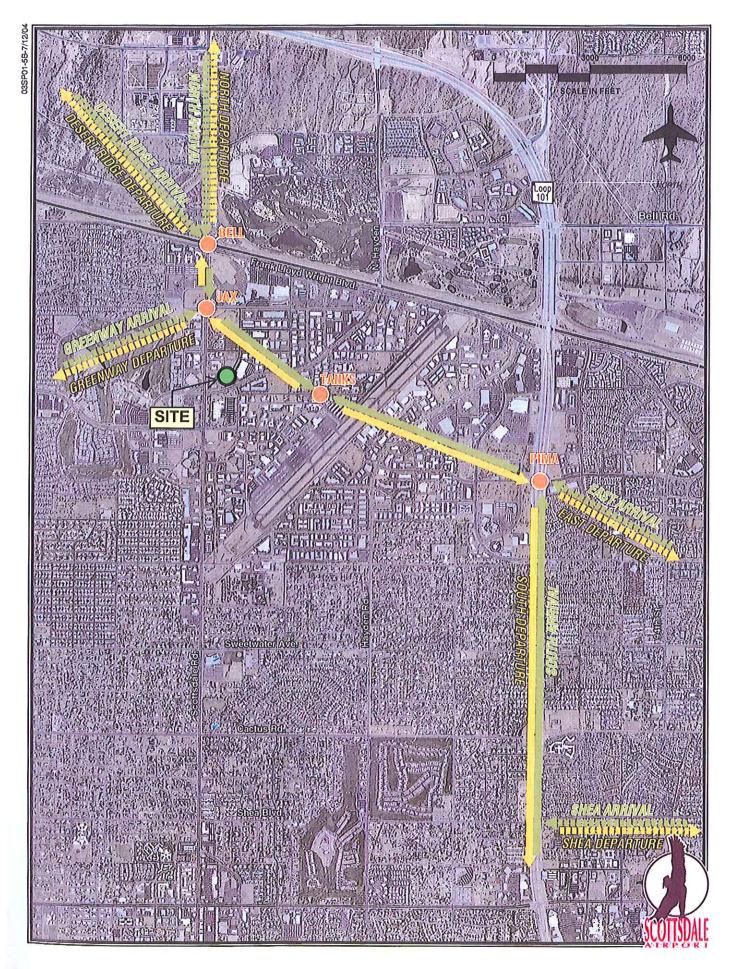




Greater Airpark Character Area Plan - proposed









Discussion and Possible Action to recommend approval of 10-ZN-2011 (Zocallo Residential)

Agenda Item No.: 5

Meeting Date: 10/05/11

Staff Contact: Brad Carr, AICP

Senior Planner

Phone: (480) 312-7713

ACTION

Discussion and Possible Action to recommend approval of 10-ZN-2011, zoning district map amendment from Highway Commercial District (C-3) zoning to Planned Unit Development (PUD) District zoning, including approval of a Development Plan and amended development standards for Average Setback, on a 6.42 +/- acre site located at 15440 N. Greenway-Hayden Loop.

PURPOSE

To provide the Airport Advisory Commission information on the proposed zoning district map amendment for a site located within the Airport Influence Area, as it relates to the 14 CFR Part 150 Noise Compatibility Study.

KEY CONSIDERATIONS

- Proximity of proposed site to Scottsdale Airport (approximately 3,600 feet northwest of runway)
- Proposed site located within the AC-1 area of the Airport Influence Zones
- Proposed site located outside of the 55 DNL noise contour
- Scottsdale Airport 14 CFR Part 150 Noise Compatibility Study Land Use Measure, #2, 4, and 6 are triggered
- Airport Overlay Zone Matrix permits proposed use with conditions
- Owner has agreed to additional stipulation to reduce exterior to interior noise levels by 25 decibels (dB)
- Maximum of 48 feet height on all buildings
- 240 units proposed
- Potential increase of workforce housing in the Airpark
- Implementation of the General Plan's mixed-use land use designation for this area of the Airpark

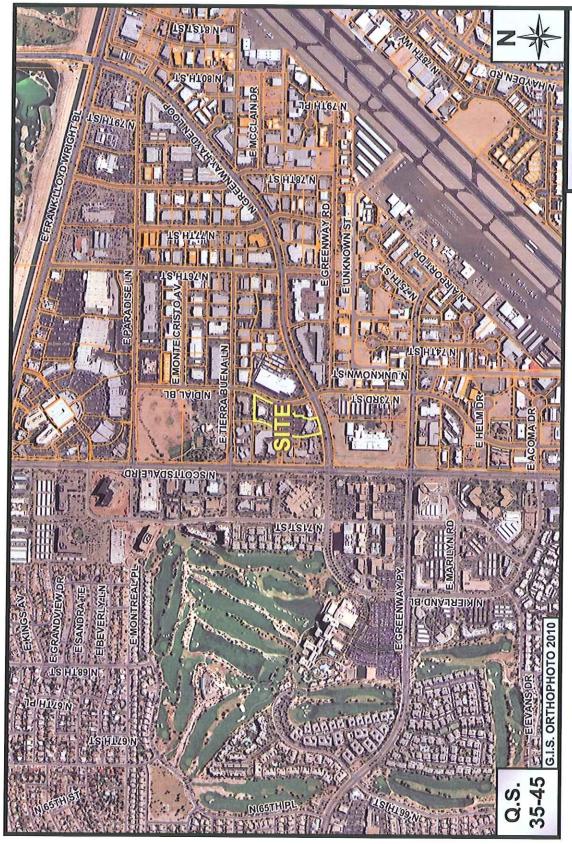
OTHER RELATED POLICIES, REFERENCES

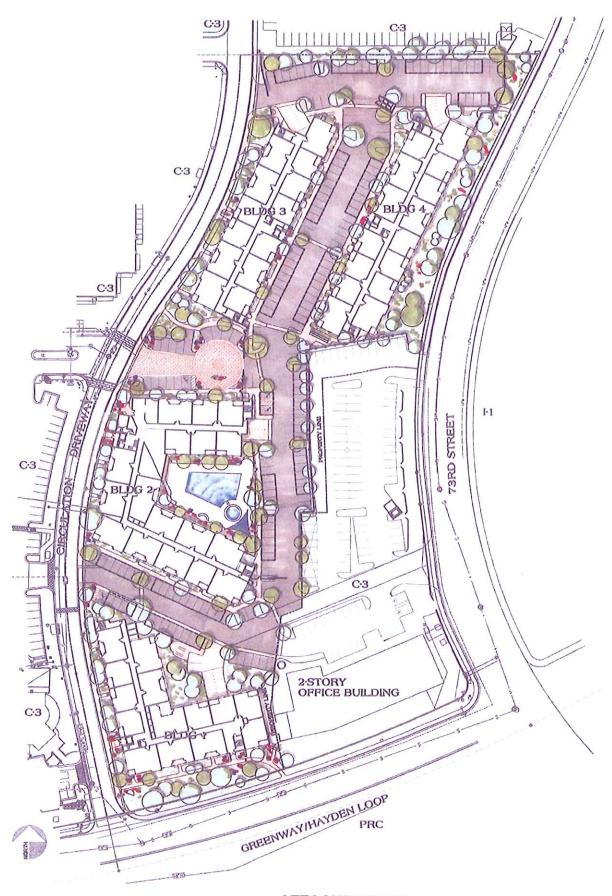
- 2010 Greater Airpark Character Area Plan
- Scottsdale General Plan 2001, as amended
- 2005 Scottsdale Airport 14 CFR Part 150 Noise Compatibility Study
- 2009 Airpark Economic Analysis and Forecast by Gruen Gruen + Associates
- Zoning Ordinance

Attachment(s): 1. Vicinity Map

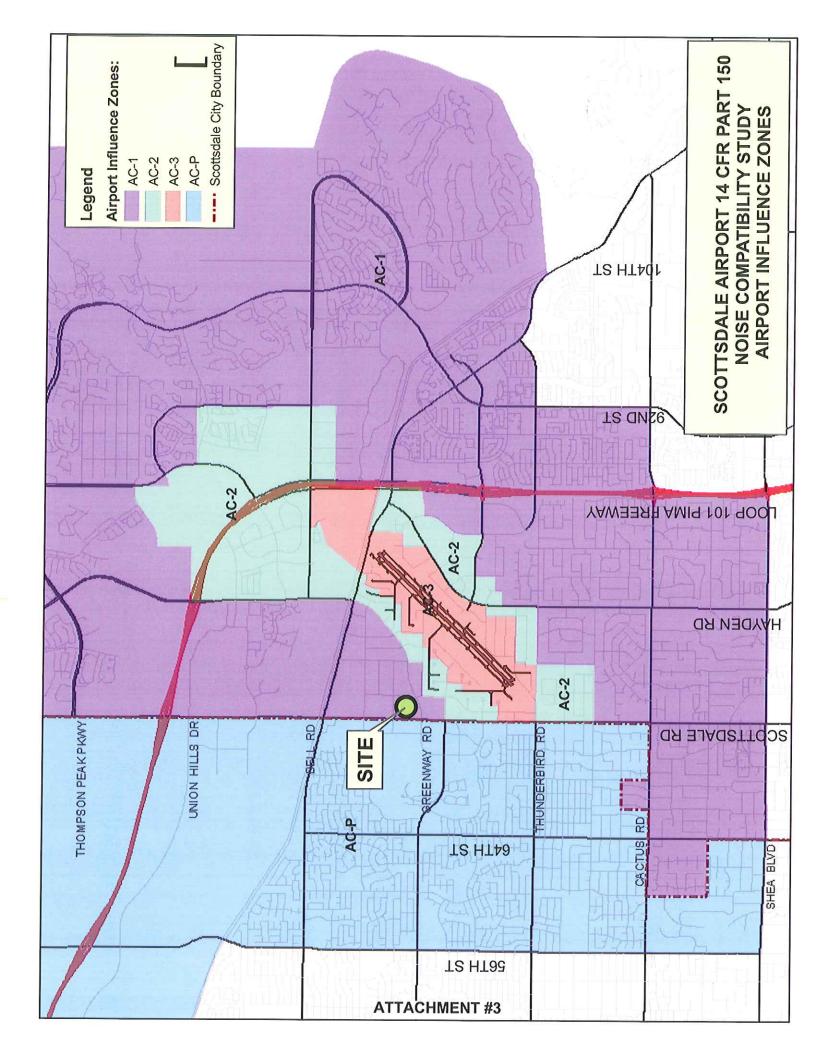
- 2. Site Plan
- 3. Part 150 Airport Influence Zones Map
- 4. Part 150 Noise Contours Map
- 5. Part 150 Helicopter Arrival/Departure Routes Map

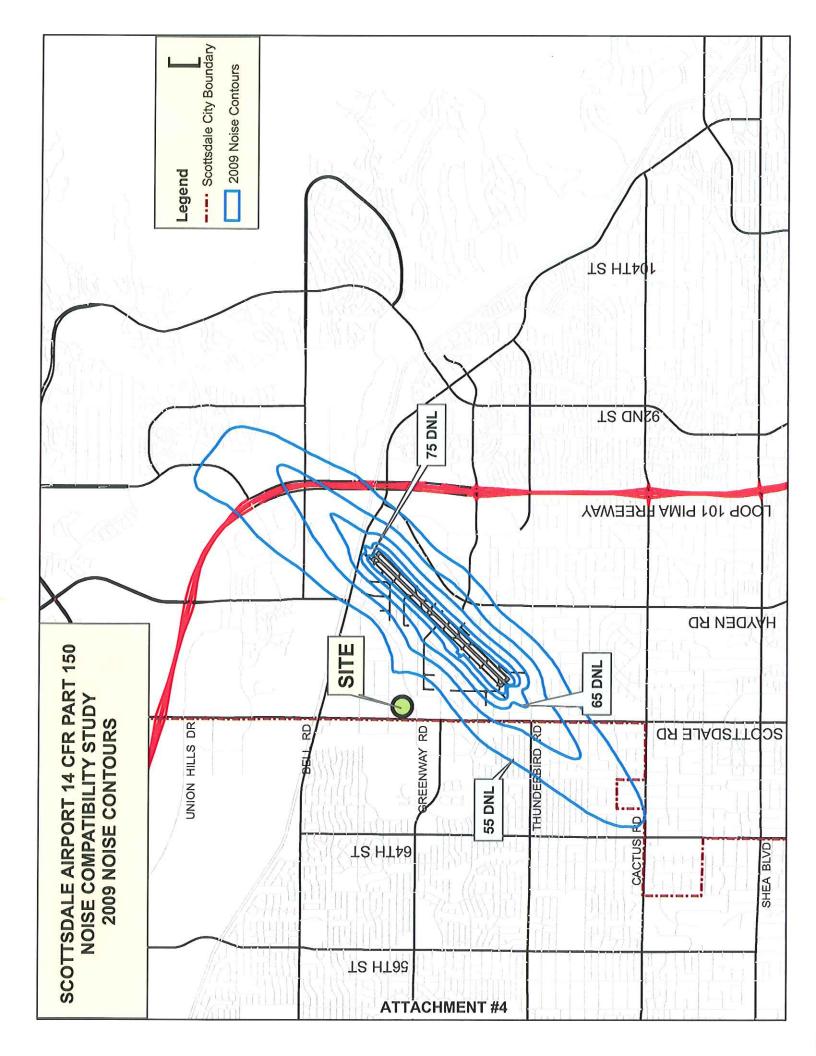
Action Taken:

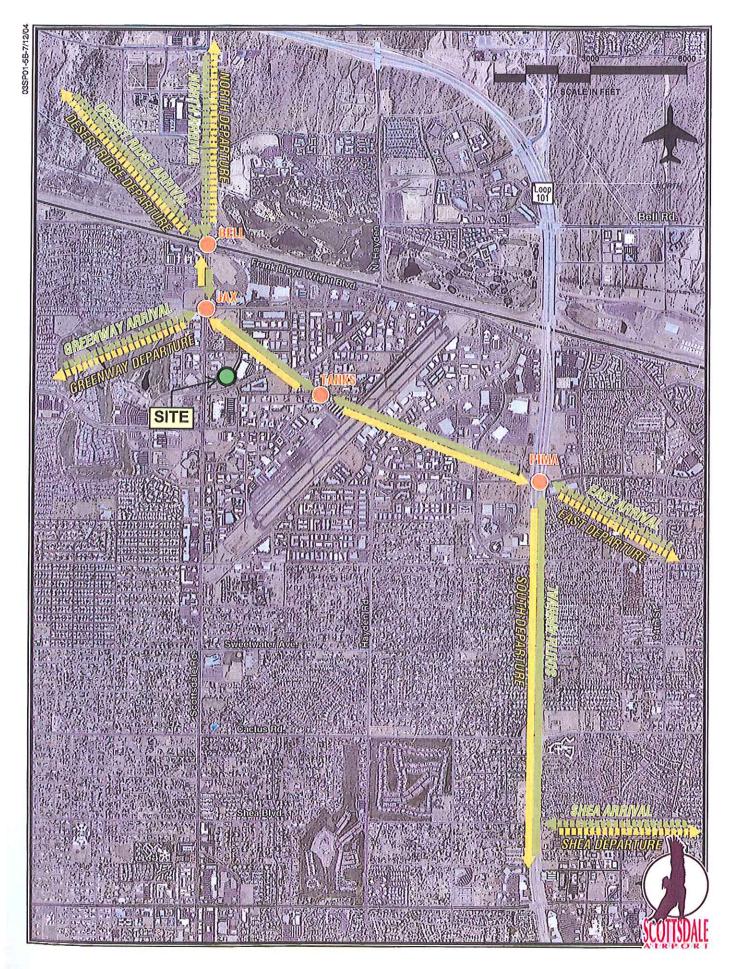




ATTACHMENT #2









Discussion and Possible Action to recommend approval of 7-GP-2011 (Scottsdale Airpark Community)

Agenda Item No.: 6

Meeting Date: 10/05/11

Staff Contact: Brad Carr, AICP

Senior Planner

Phone: (480) 312-7713

ACTION

Discussion and Possible Action to recommend approval of 7-GP-2011, a Non-Major General Plan Amendment to the Greater Airpark Character Area Plan Future Land Use Map from Airpark Mixed Use (AMU) to Airpark Mixed Use-Residential (AMU-R) on a 12.2 +/- acre site located at 15333 N. Hayden Road.

PURPOSE

To provide the Airport Advisory Commission information on the proposed Non-Major General Plan Amendment for a site located within the Airport Influence Area, as it relates to the 14 CFR Part 150 Noise Compatibility Study.

KEY CONSIDERATIONS

- Proximity of proposed Airpark Mixed Use-Residential designation to Scottsdale Airport and other Airpark Mixed Use-Residential designated properties
- Proposed site located within the AC-2 area of the Airport Influence Zones
- Proposed site located partially-within the 55 DNL noise contour, but outside the 65 DNL noise contour
- Scottsdale Airport 14 CFR Part 150 Noise Compatibility Study Land Use Measures #1, 2, 4 and 6 are triggered
- Airport Overlay Zone Matrix permits proposed use with conditions
- Potential increase of workforce housing in the Airpark
- Implementation of the General Plan's mixed-use land use designation for this area of the Airpark

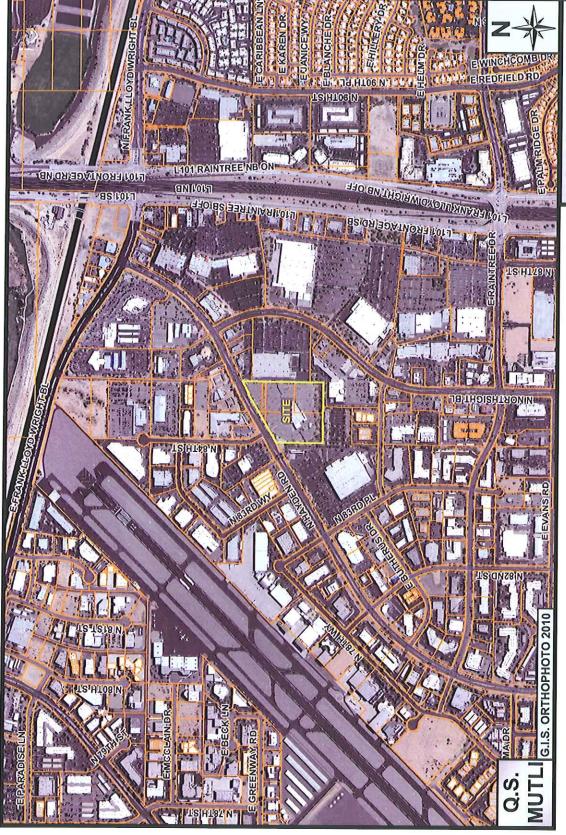
OTHER RELATED POLICIES, REFERENCES

- 2010 Greater Airpark Character Area Plan
- Scottsdale General Plan 2001, as amended
- 2005 Scottsdale Airport 14 CFR Part 150 Noise Compatibility Study
- 2009 Airpark Economic Analysis and Forecast by Gruen Gruen + Associates

Attachment(s): 1. Vicinity Map

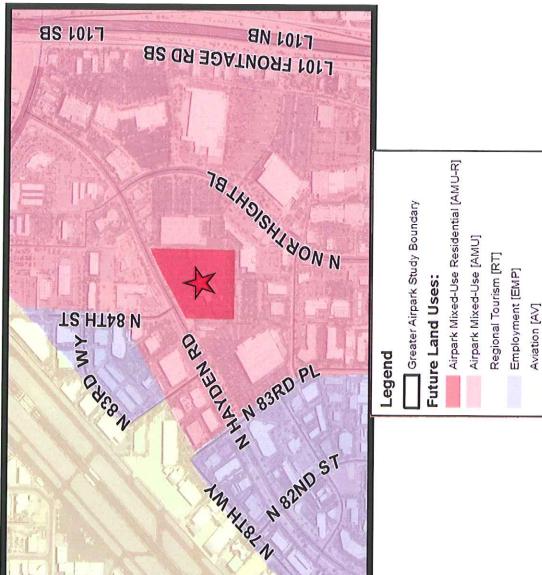
- 2. Greater Airpark Character Area Plan Future Land Use Map Proposed
- 3. Part 150 Airport Influence Zones Map
- 4. Part 150 Noise Contours Map
- 5. Part 150 Helicopter Arrival/Departure Routes Map

Action Taken:

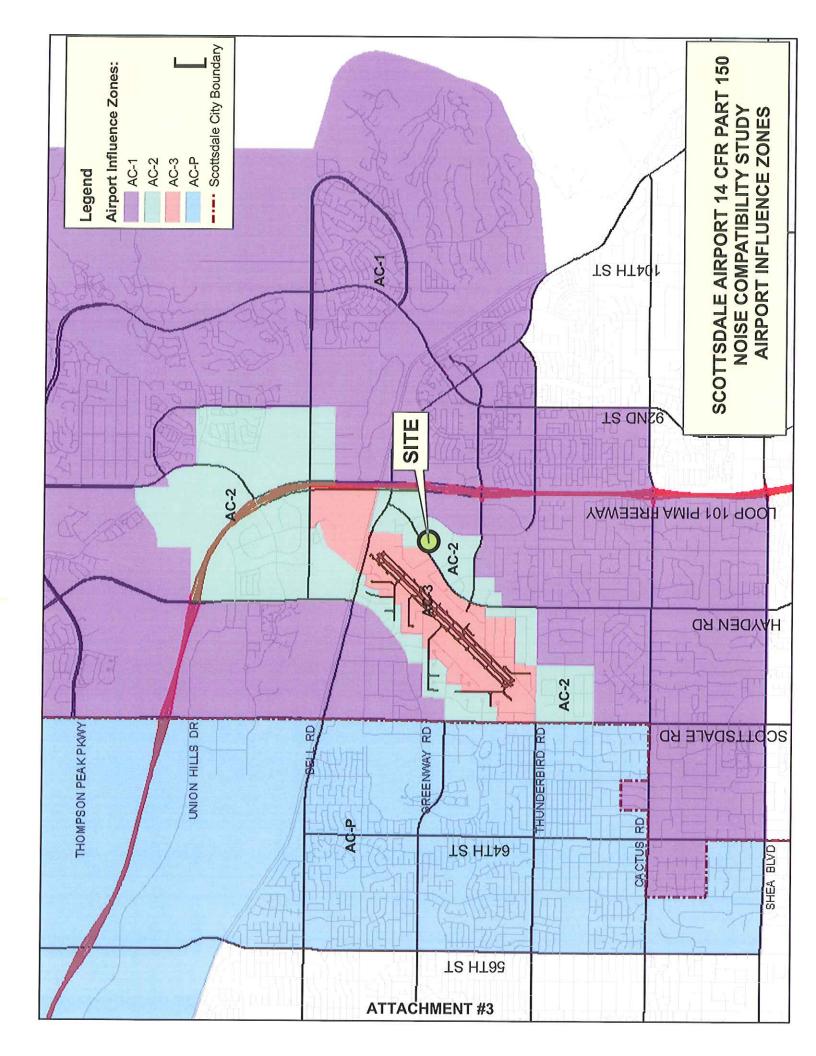


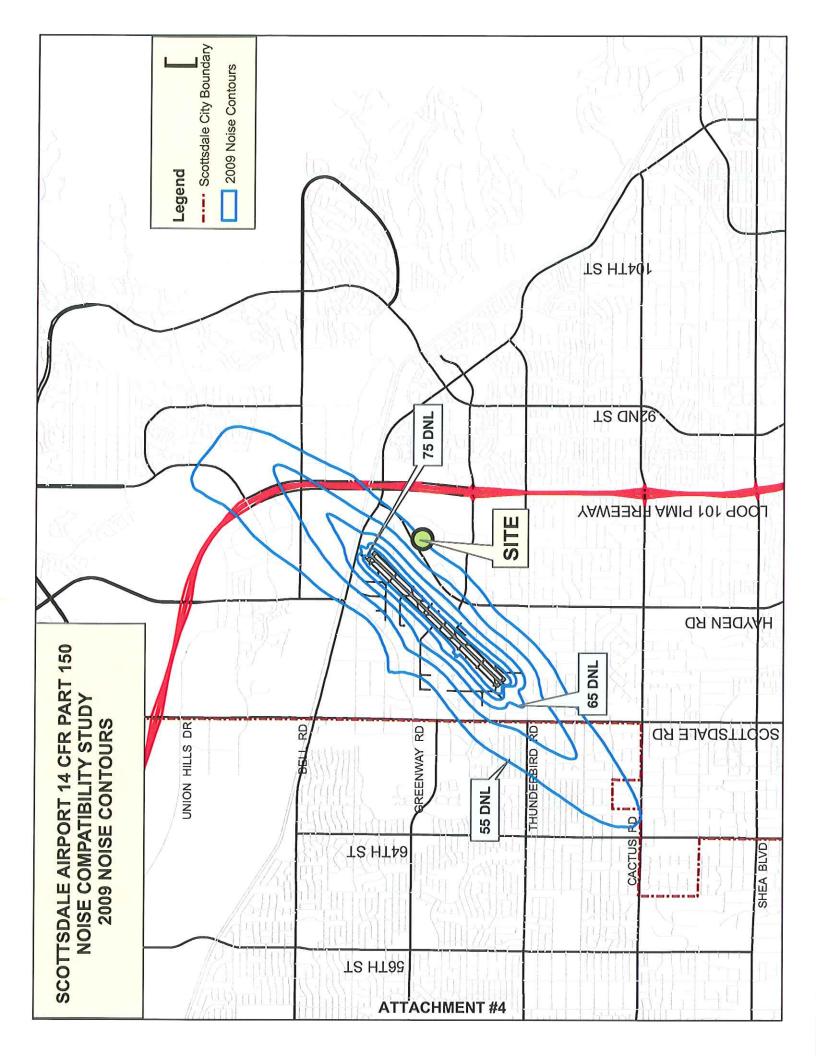
Aviation/Airpark Mixed-Use [AV/AMU]

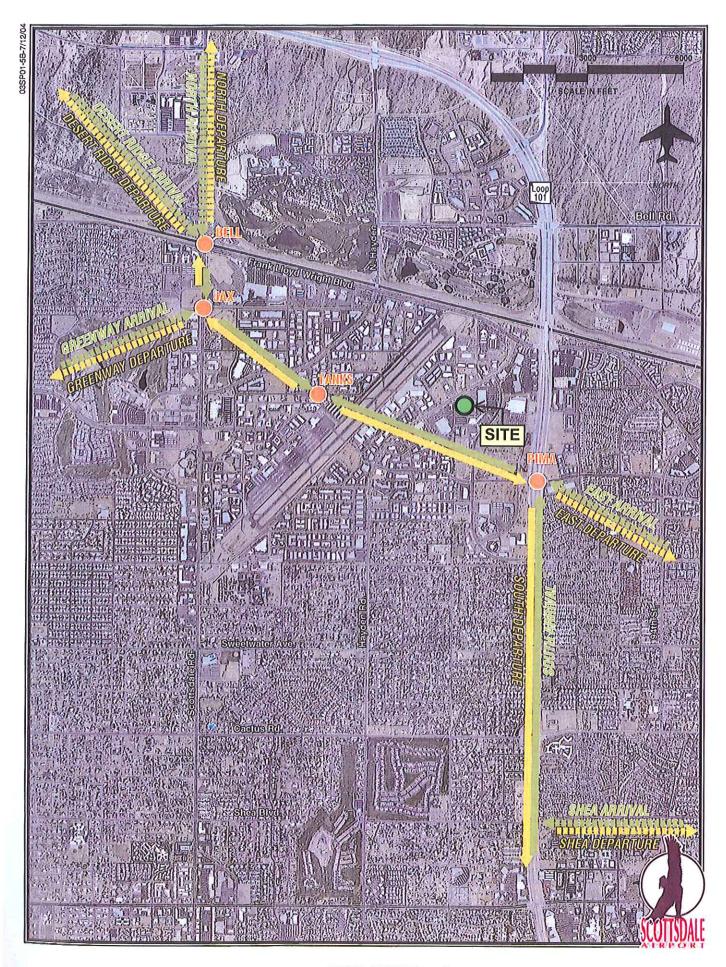
Open Space [O-S]



Greater Airpark Character Area Plan - proposed









COMMISSION ACTION REPORT

Discussion and Possible Action to recommend approval of 11-ZN-2011 (One Hayden Centre)

Agenda Item No.: 7

Meeting Date: 10/05/11

Staff Contact: Brad Carr, AICP

Senior Planner

Phone: (480) 312-7713

ACTION

Discussion and Possible Action to recommend approval of 11-ZN-2011, a zoning district map amendment from General Commercial District (C-4) zoning to Planned Unit Development (PUD) District zoning, including approval of a Development Plan, on a 12.2 +/- acre site located at 15333 N. Hayden Road.

PURPOSE

To provide the Airport Advisory Commission information on the proposed zoning district map amendment for a site located within the Airport Influence Area, as it relates to the 14 CFR Part 150 Noise Compatibility Study.

KEY CONSIDERATIONS

- Proximity of proposed site to Scottsdale Airport (approximately 1,800 feet southeast of runway)
- Proposed site located within the AC-2 area of the Airport Influence Zones
- Proposed site located partially-within the 55 DNL noise contour, but outside the 65 DNL noise contour
- Scottsdale Airport 14 CFR Part 150 Noise Compatibility Study Land Use Measures #1, 2, 4, and 6 are triggered
- Airport Overlay Zone Matrix permits proposed use with conditions
- Stipulations of case will require a reduction of exterior to interior noise levels by 25 decibels (dB)
- · Maximum of 48 feet height on all buildings
- Approximately 600 units proposed
- Potential increase of workforce housing in the Airpark
- Implementation of the General Plan's mixed-use land use designation for this area of the Airpark

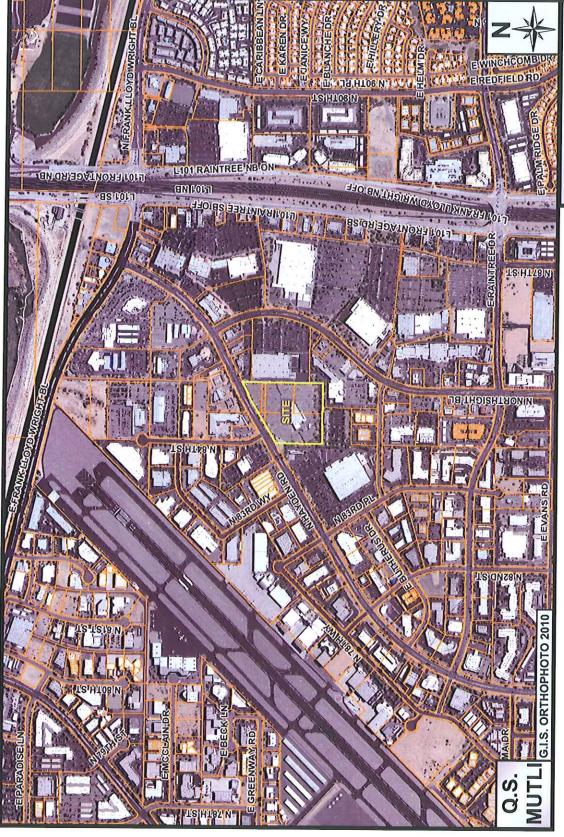
OTHER RELATED POLICIES, REFERENCES

- 2010 Greater Airpark Character Area Plan
- Scottsdale General Plan 2001, as amended
- 2005 Scottsdale Airport 14 CFR Part 150 Noise Compatibility Study
- 2009 Airpark Economic Analysis and Forecast by Gruen Gruen + Associates
- Zoning Ordinance

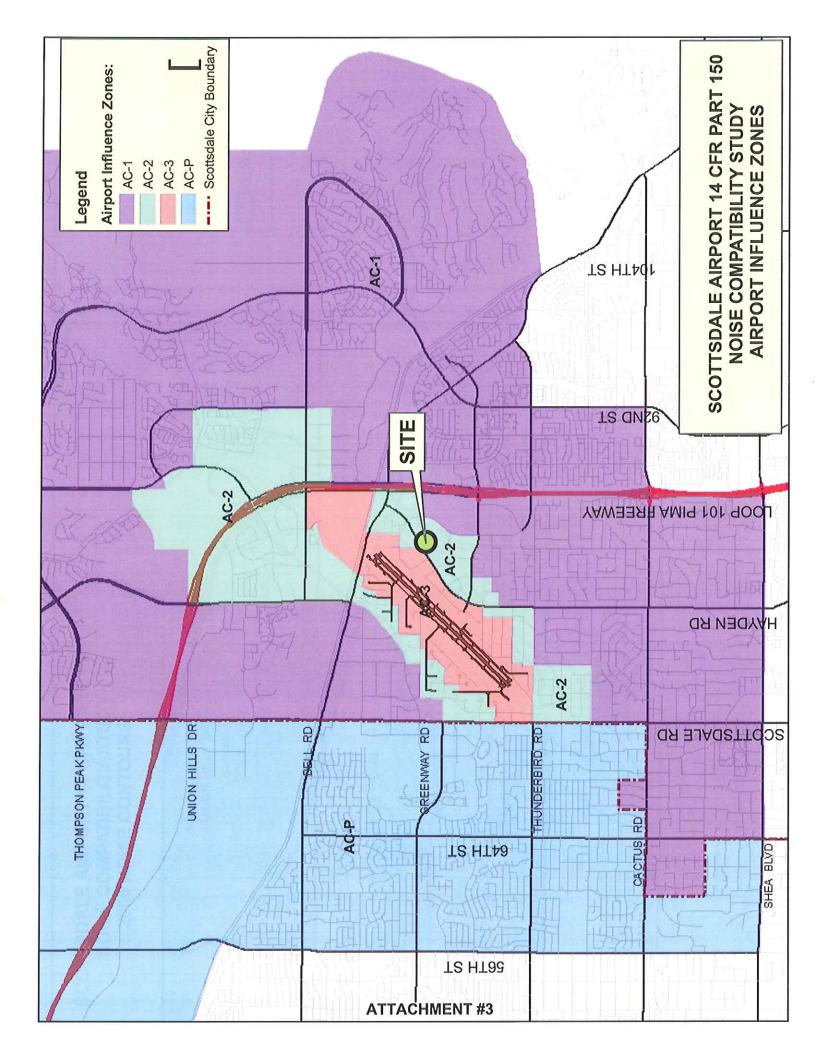
Attachment(s): 1. Vicinity Map

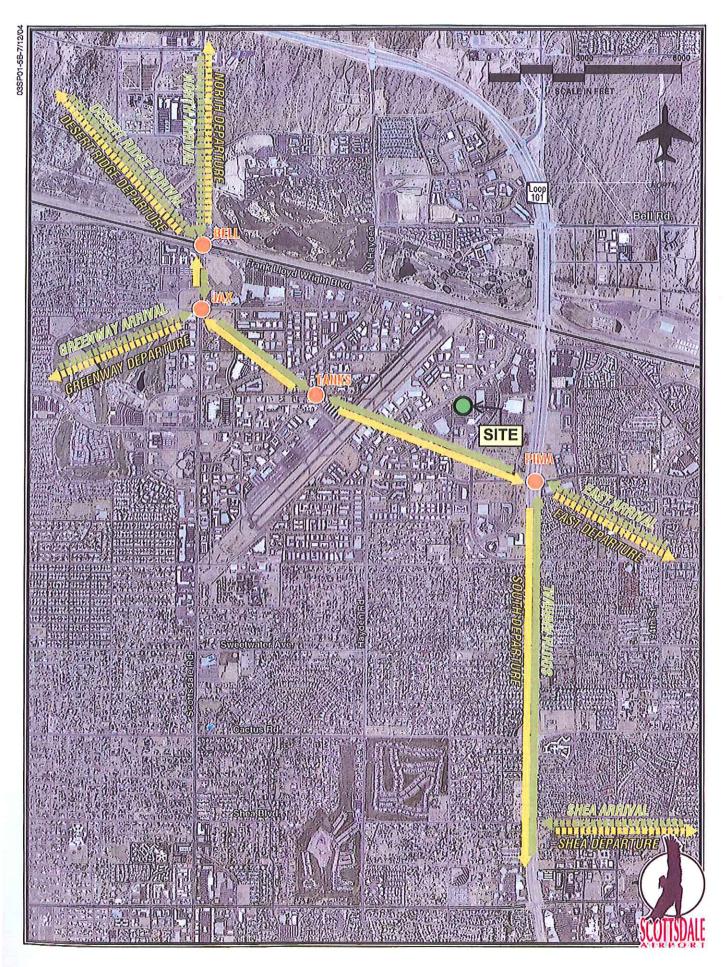
- 2. Site Plan
- 3. Part 150 Airport Influence Zones Map
- 4. Part 150 Noise Contours Map
- 5. Part 150 Helicopter Arrival/Departure Routes Map

Action Taken:











COMMISSION ACTION REPORT

Discussion and Possible Action to recommend approval of 8-GP-2011 (CrackerJax)

Agenda Item No.: 8

Meeting Date: 10/05/11

Staff Contact: Brad Carr, AICP

Senior Planner

Phone: (480) 312-7713

ACTION

Discussion and Possible Action to recommend approval of 8-GP-2011, a Non-Major General Plan Amendment to the Greater Airpark Character Area Plan Future Land Use Map from Airpark Mixed Use (AMU) to Airpark Mixed Use-Residential (AMU-R) on a 32 +/- acre site located at 16001 N. Scottsdale Road.

PURPOSE

To provide the Airport Advisory Commission information on the proposed Non-Major General Plan Amendment for a site located within the Airport Influence Area, as it relates to the 14 CFR Part 150 Noise Compatibility Study.

KEY CONSIDERATIONS

- Proximity of proposed Airpark Mixed Use-Residential designation to Scottsdale Airport and other Airpark Mixed Use-Residential designated properties
- Proposed site located within the AC-1 area of the Airport Influence Zones
- Proposed site located outside of the 55 DNL noise contour
- Scottsdale Airport 14 CFR Part 150 Noise Compatibility Study Land Use Measure #2, #4, and #6 are triggered
- Airport Overlay Zone Matrix permits proposed use with conditions
- Potential increase of workforce housing in the Airpark
- Implementation of the General Plan's mixed-use land use designation for this area of the Airpark

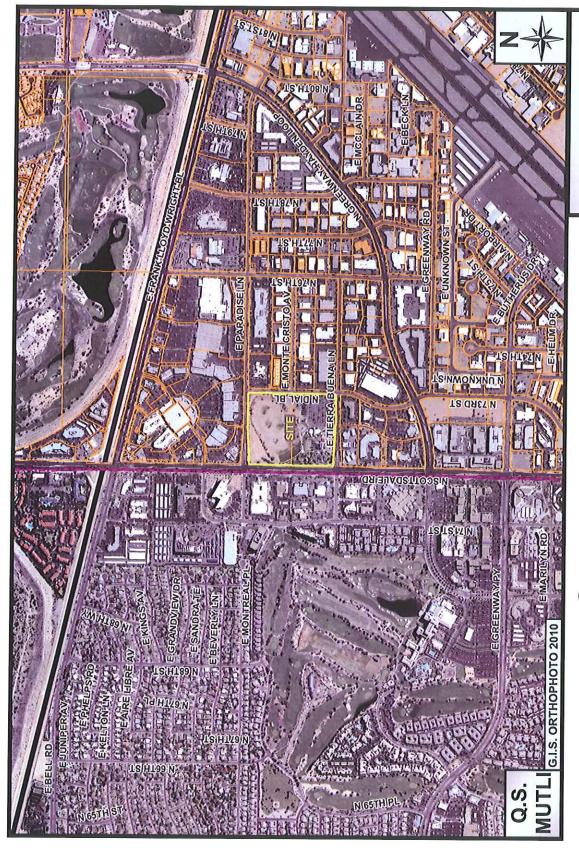
OTHER RELATED POLICIES, REFERENCES

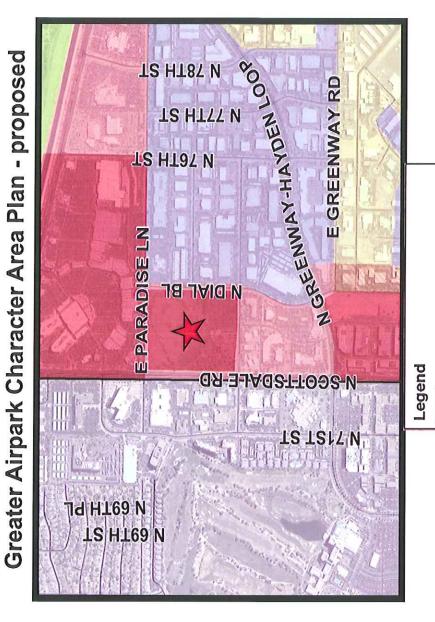
- 2010 Greater Airpark Character Area Plan
- Scottsdale General Plan 2001, as amended
- 2005 Scottsdale Airport 14 CFR Part 150 Noise Compatibility Study
- 2009 Airpark Economic Analysis and Forecast by Gruen Gruen + Associates

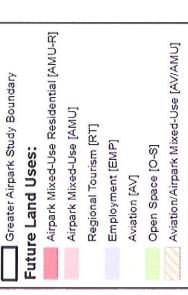
Attachment(s): 1. Vicinity Map

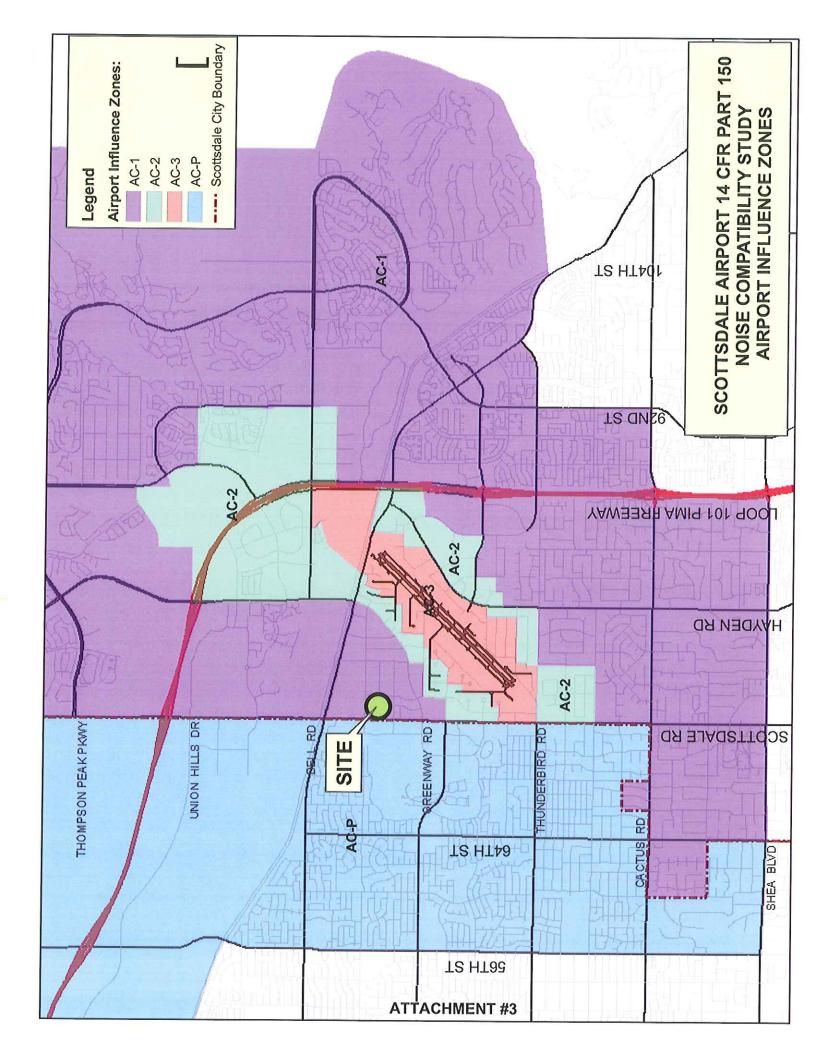
- 2. Greater Airpark Character Area Plan Future Land Use Map Proposed
- 3. Part 150 Airport Influence Zones Map
- 4. Part 150 Noise Contours Map
- 5. Part 150 Helicopter Arrival/Departure Routes Map

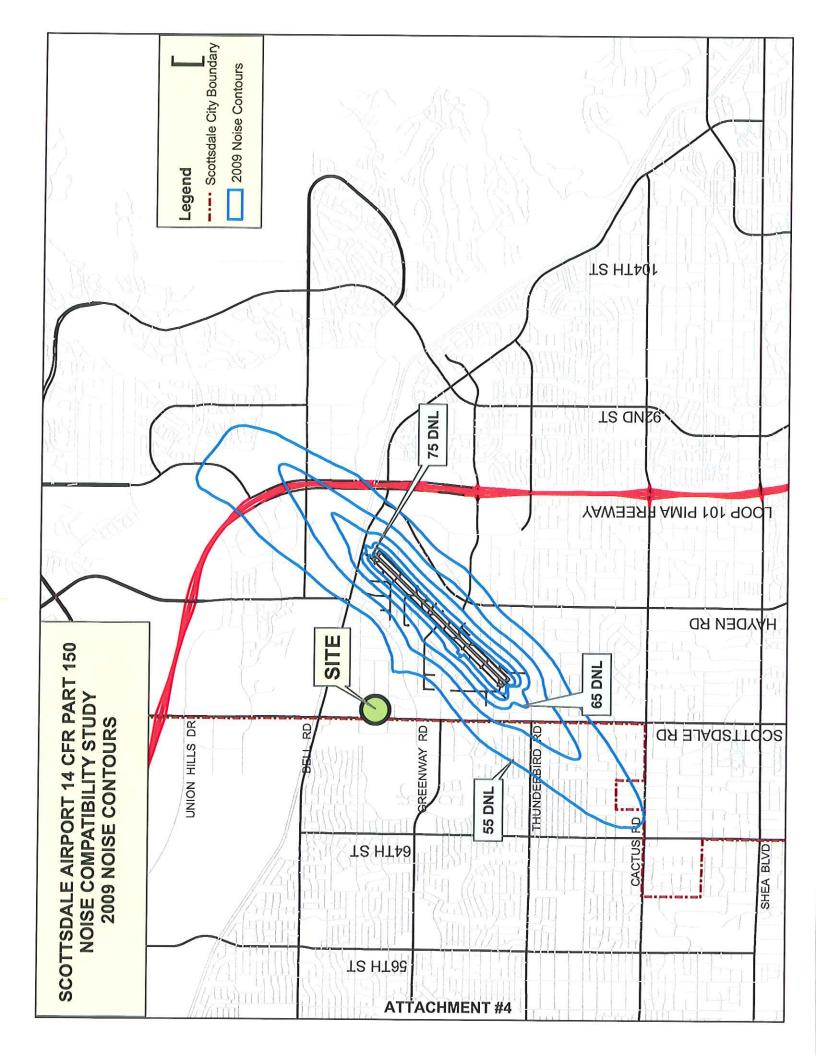
Action Taken:

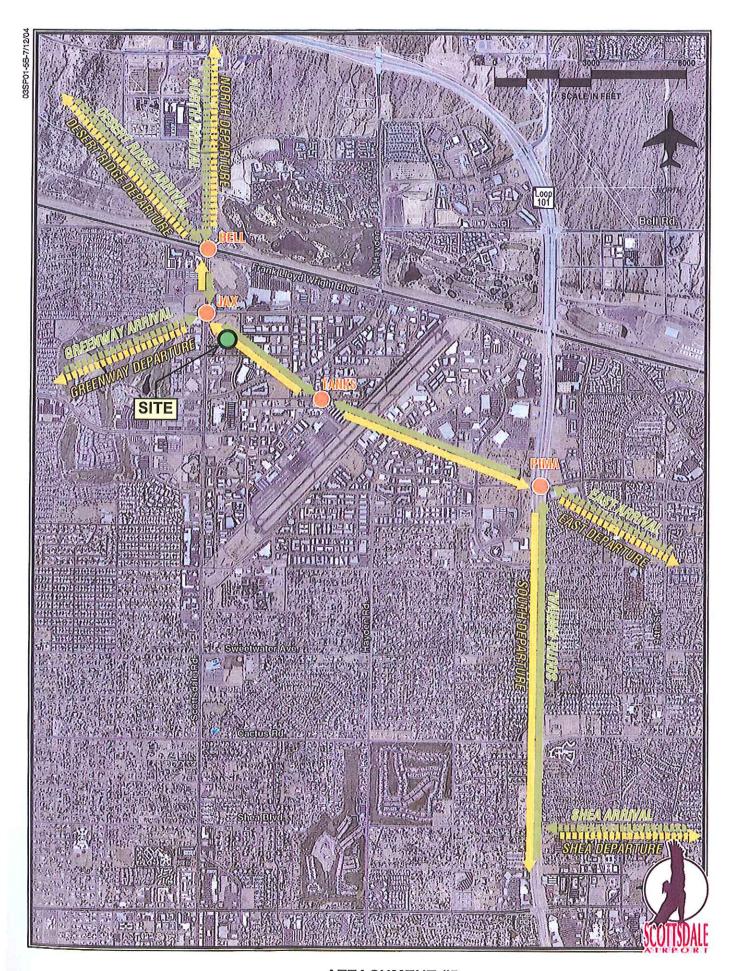














COMMISSION INFORMATION REPORT

Discussion and Input Regarding and update to the Scottsdale Air Fair

Agenda Item No.: 9

Meeting Date: 10/05/2011

Staff Contact: Kate O'Malley, Planning & Outreach Coordinator

Phone: (480) 312-8482

INFORMATION		
The Scottsdale Air Fair event manager will provide an update on the 2011 Scottsdale Air Fair.		



COMMISSION ACTION REPORT

Discussion and Possible Action to recommend Adoption of Resolution No. 8843, authorizing contract 2011-121-COS with Ciao Baby Catering, LLC d/b/a Zulu Caffe to enter into a restaurant lease agreement at Scottsdale Airport Terminal Building

Agenda Item No.: 10

Meeting Date: 10/05/11

Staff Contact: Shannon Johnson,

Management Analyst

Phone: (480) 312-8475

ACTION

Airport Advisory Commission consider recommending that the City Council ADOPT Resolution No. 8843 authorizing execution of contract No. 2011-121-COS, a lease agreement with Ciao Baby Catering d/b/a Zulu Caffe to operate a restaurant in the Scottsdale Airport Terminal Building.

PURPOSE

The lease agreement allows the Airport to re-establish a restaurant presence in the Scottsdale Airport terminal for the purpose of providing food service at Scottsdale Airport. The agreement also allows the City to provide the amenity of an on-site restaurant to customers and users of the Scottsdale Airport.

KEY CONSIDERATIONS

- A request for proposals for lease of the restaurant closed on August 29, 2011. This was the third attempt on soliciting a restaurant operator.
- One proposal was received and evaluated by a Proposal Evaluation Committee consisting of an Airport Commissioner and two Aviation employees.
- The restaurant comprises approximately 2838 square feet of area inside the northeast end of the terminal building, plus a 1360 square feet patio dining area.
- Fixtures and personal property belonging to the Airport are included in the lease agreement.
- The restaurant closed approximately two years ago.
- Scottsdale Airport is a destination location, which had a restaurant operation in place from 1980 until 2009.
- Under the proposed lease agreement the City will receive base rent, or a percentage of gross sales, whichever is higher.
- The restaurant lease agreement term is three (3) years, with seven (7) one-year options to renew.

Attachment(s): 1. Resolution No. 8843

2. Contract No: 2011-121-COS

Action Taken:

RESOLUTION NO. 8843

A RESOLUTION OF THE COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING AN AIRPORT RESTAURANT LEASE AGREEMENT BETWEEN THE CITY OF SCOTTSDALE AND CIAO BABY CATERING DBA ZULU CAFFE.

The City desires to establish a restaurant in the Airport Terminal building; and
Ciao Baby Catering dba Zulu Caffe has agreed to lease the existing restaurant space
and open a restaurant in the Airport Terminal building.

BE IT RESOLVED by the Council of the City of Scottsdale as follows:

Section 1. The Mayor of the City of Scottsdale is authorized and directed to execute Restaurant Lease Agreement, Contract No. 2011-121-COS between the City and Ciao Baby Catering dba Zulu Caffe for the operation of a restaurant in the Airport Terminal building.

PASSED AND ADOPTED by the Council of the City of Scottsdale this 18th day of October, 2011.

ATTEST:	CITY OF SCOTTSDALE An Arizona municipal corporation
By: Carolyn Jagger, City Clerk	By: W. J. "Jim" Lane, Mayor
APPROVED AS TO FORM:	
Bruce Washburn, City Attorney By: Clifford J. Frey Senior Assistant City Attorney	

WHEN RECORDED, RETURN TO:

City of Scottsdale
One Stop Shop/Records
(Aviation Director)
7447 E. Indian School Road, Suite 100
Scottsdale, AZ 85251

Contract No. 2011-121-COS Resolution No.8843

LEASE AGREEMENT

THIS LEASE AGREEMENT is made and entered into this ____ day of _____, 2011, between the CITY OF SCOTTSDALE, an Arizona municipal corporation ("Lessor"), and CIAO BABY CATERING dba Zulu Caffe, an Arizona Limited Liability Company ("Lessee").

WITNESSETH

- A. City is the owner of certain real property (the "Premises") located within and adjacent to the existing terminal building (the "Terminal Building") at Scottsdale Airport. The Terminal Building is located on a parcel of real property described on Exhibit "A" attached and made a part of this Agreement.
- B. Lessee desires to use the Premises solely for sit-down food and beverage service (including alcohol if permitted by law) only for immediate consumption at the Premises, together with ancillary meeting, reception, catering and banquet functions (the "Permitted Uses"), subject to the requirements of this Agreement.
- C. Lessor desires to lease to Lessee the Premises for the Permitted Uses, subject to the requirements of this Agreement.

FOR AND IN CONSIDERATION of the foregoing, the rent to be paid by Lessee, and the covenants and agreements to be kept and performed by Lessee, and other good and valuable consideration, Lessor and Lessee agree as follows:

I. RECITALS
Page 1 of 39

1. <u>Recitals</u>. The foregoing recitals are incorporated into this Agreement.

II. PREMISES

Premises.

- 2.1 <u>Limitations</u>. The Premises are limited to the areas depicted in the drawing attached as Exhibit "B." Lessee has examined, studied and inspected the Premises and they are being leased in an "as is" condition without any express or implied warranties of any kind, including without limitation any warranties or representations as to their condition or fitness for any use. The Premises includes and is limited to:
- 2.1.1 Approximately 2838 square feet of floor area located inside and toward the northeast end of the existing Terminal Building consisting of restaurant space; together with:
- 2.1.2 Approximately 1360 square feet of outdoor space for patio dining areas. Despite anything to the contrary, Lessor may elect to open the outdoor patio area at any, or all time, without compensation to Lessee or excusing Lessee from any Lease obligations, for unrestricted passage by all passengers, pilots and other persons using the Airport. Lessor will have the unilateral right to augment, abandon, convey and otherwise modify the configuration of the outdoor patio area from time to time during the term of this Agreement. Lessor may also unilaterally regulate, re-route, close and otherwise alter pedestrian use of the patio area. Lessor will not exercise Lessor's rights under this paragraph so as to unreasonably restrict Lessee's use of the outdoor patio area for dining purposes; together with:
- 2.1.3 Approximately 53 square feet of floor area located inside and toward the northwest end of the existing terminal building consisting of a mop room
- 2.2 <u>Rights in Adjacent Premises</u>. Lessee's rights are expressly limited to the real property defined as the "Premises" in this Agreement. Without limitation, in the event any public or private property adjacent to the Premises is owned, dedicated, abandoned or otherwise acquired, used, improved or disposed of by Lessor, this property will not accrue to this Agreement but will be Lessor's only. In addition, and severable from the preceding sentence, upon any such event, Lessee will execute and deliver to Lessor without compensation a quit-claim deed of the property. In the event the Premises consists of more or less than the stated area, this Agreement will continue and Lessee's obligations will not be diminished.
- 2.3 <u>Fixtures and Property Included</u>. The Premises also includes the fixtures and personal property owned by Lessor listed on Exhibit "D" attached to this Agreement. This property will be maintained in good working condition by Lessee from time to time at Lessee's expense. If and when, during the term of this Agreement, any of this property wears out, Lessor may dispose of it at Lessee's expense. Lessee at Lessee's expense will replace all worn out property as listed in Exhibit "D", which Lessor owns at all times. Lessee is solely responsible for the condition of the personal property. Lessee has inventoried the property before executing this Agreement and has determined that it is all within the Premises and in serviceable condition. This personal property is provided "as is" and Lessee accepts all responsibility for its condition.
 - 2.4 <u>Title</u>. Lessee's rights under this Agreement are subject to all covenants,

restrictions, easements, agreements, reservations and encumbrances upon, and all other conditions of title to, the Premises. Despite the preceding sentence, Lessor agrees that on the commencement date there will be no mortgage lien or deed of trust covering the Premises, other than current taxes or liens resulting from the acts or omissions of Lessee. Lessee's rights under this Agreement are further subject to all present and future building restrictions, regulations, zoning laws, ordinances, resolutions, and orders of all bodies, bureaus, commissions and bodies of any municipal, county, state, or federal authority, now or subsequently having jurisdiction over the Premises or Lessee's use of the Premises. Lessee has no right under this Agreement to do (or fail to do) anything prohibited (or required) by any documents affecting legal title to the Premises.

III. TERM OF LEASE

- 3. <u>Term of Lease</u>. Lessor leases the Premises to Lessee subject to the following provisions and conditioned upon Lessee's full, timely, complete and faithful performance of all performances and things to be performed or done by Lessee and Lessee accepts the Premises and this Agreement.
- 3.1 <u>Term</u>. The term of this Agreement shall be for a period of 3 years beginning on the date of this Agreement unless sooner terminated.
- 3.2 Extensions. Subject to Lessor's consent, which Lessor may withhold in Lessor's sole and absolute discretion, in the event of Lessee's continuously full, complete and timely performance of this Agreement throughout the initial term set forth above and any extension, this Agreement may be extended at Lessee's option for 7 additional 1 year periods for a total of 10 years. In order to exercise its option to extend, Lessee must give to Lessor written notice of Lessee's intent to extend no later than 6 months and no earlier than 12 months before expiration of the initial term (or, in the case of the second or subsequent extension, the previous extension). In the event of extension, Lessee must obtain from Lessor and record a notice of extension in form acceptable to Lessor.
- 3.3 <u>Holding Over.</u> In any circumstance whereby Lessee would hold over and remain in possession of the Premises after the expiration of this Agreement, this holding over will not be considered to operate as a renewal or extension of this Agreement, but will only create a tenancy from month to month which may be terminated at any time by Lessor upon 10 days notice to Lessee.

IV. LEASE PAYMENTS

- 4. <u>Lease Payments</u>. Lessee will pay to Lessor all of the following payments together with all other payments required by this Agreement (all payments by Lessee to Lessor required by this Agreement for any reason are collectively the "Rent"):
- 4.1 Rent Payment Date. All Rent is payable one month in advance on the twenty-fifthday of the preceding calendar month. For example, the Rent for September is payable on or before August 25th. The first installment of Rent prorated for the portion of the month remaining in the month in which this Agreement is executed is due immediately upon execution of this Agreement.

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- 4.2 <u>Base Rent</u>. Lessee will pay to Lessor at the beginning of each calendar month of this Agreement an amount (the "Base Rent") equal to \$800.
- 4.3 <u>Base Rent Adjustment</u>. If the parties agree to one or more annual extensions of the term of this Agreement, they will renegotiate the Base Rent effective at the commencement of each extension.
- 4.4 Percentage Rent. "Percentage Rent" is a percentage of gross sales ("Gross Sales") calculated for each calendar month during the term of this Agreement. The percentage used to calculate Percentage Rent until the first anniversary of this Agreement will be 4% of Gross The percentage used to calculate Percentage Rent during the second year of this Agreement will be 5% of Gross Sales. The percentage used to calculate Percentage Rent during the third year of this Agreement will be 6% of Gross Sales. If the parties agree to one or more extensions of the term of this Agreement, then the percentage used to calculate Percentage Rent for the fourth year of this Agreement and for all subsequent years will be 7% of Gross Sales. Lessee has the obligation to occupy, operate and conduct its business upon the Premises so as to maximize the Percentage Rent payable. "Gross Sales" means any and all receipts, rents, credits, payments in kind, amounts collected or billed, invoiced or attempted to be collected, accounts receivable, (excluding complimentary goods or services provided or amounts rebated) or other sources of revenue arising directly or indirectly from business or activity conducted at the Premises by the Lessee or any sublessee or other person using the Premises during the term of or under this Agreement.
- 4.5 Correlation of Base Rent and Percentage Rent. In addition to all other payments and performances required of Lessee during the term of this Agreement, Lessee will pay to Lessor each month the Base Rent or the Percentage Rent, whichever is greater. Because the Percentage Rent cannot be calculated in advance at the beginning of a month, Lessee will include in each monthly installment of Rent the Base Rent for the coming month together with the amount, if any, by which the Percentage Rent exceeded the Base Rent for the preceding month and a reconciliation in a form acceptable to Lessor showing the manner in which the Percentage Rent was calculated. The reconciliation will be accompanied by dated and signed cash register tapes and other documentation substantiating Gross Sales as requested by Lessor from time to time. For example, the Rent installment payable on the 25th day of June will include the Base Rent for the month of July together with the amount, if any, by which the Percentage Rent exceeded the Base Rent for the month of May and a reconciliation showing the manner in which the Percentage Rent for the month of May was calculated. Within 20 days after termination of this Agreement for any reason, Lessee will pay to Lessor any and all unpaid Percentage Rent and any and all unpaid other Rent.
- 4.6 <u>Temporary Base Rent Reduction</u>. Despite anything contained in this Agreement to the contrary, the amount of Base Rent will be zero until November 1, 2011.
- 4.7 <u>Security Deposit</u>. At the time of execution of this Agreement Lessee must provide to, and maintain with Lessor at all times during the term of this Agreement, a security deposit guaranteeing the faithful performance of this Agreement, or alternatively, a cash bond or certificate of deposit acceptable to Lessor in Lessor's sole and absolute discretion in the name of Lessor, in the sum of \$2,000.00. Any portion of the security deposit to which Lessee may then be entitled, net of any setoff or other obligation of Lessee to Lessor, will be paid to Lessee by Lessor within 60 days after termination of this Agreement.

- 4.8 <u>Utilities</u>. Lessee will pay all charges, fees, deposits and other amounts for gas, electricity, water, sewer, waste disposal services, garbage disposal, telephone and all other utilities at the applicable rates. With respect to any shared utilities, such as water or garbage disposal, if applicable, Lessee will pay a pro rata portion of all costs as determined in Lessor's reasonable discretion.
- 4.9 <u>Late Fees</u>. Should any installment of Rent not be paid on or before the date due, a 10% late fee will be added to the amount due, or found to be due. In addition, any and all amounts payable by Lessee under this Agreement that are not timely paid will accrue interest at the rate of 1% per month from the date the amount first came due until paid. Lessee expressly agrees that the foregoing represent reasonable estimates of Lessor's costs in the event of a delay in payment of Rent.
- 4.10 Rent Amounts Cumulative. All amounts payable by Lessee or under any tax, assessment or other existing or future ordinance or other law of the City of Scottsdale or the State of Arizona are cumulative and payable in addition to each other payment required by this Agreement, and these amounts will not be credited toward, substituted for, or setoff against each other in any manner.
- 4.11 <u>No Setoffs</u>. All Rents will be paid in full directly to Lessor without setoff or deduction of any description. Lessee expressly waives any right of setoff.
- 4.12 <u>Payments by Lessor</u>. Despite anything in this Agreement to the contrary, in the event Lessor at any time is required to pay to Lessee any amount, this amount is not due until 30 days after notice by Lessee to Lessor that the amount has become payable.

V. USE RESTRICTIONS

- 5. <u>Use Restrictions</u>. Lessee's use and occupation of the Premises will in all respects conform to all and each of the following cumulative provisions:
- 5.1 <u>Permitted Uses.</u> Lessee will use the Premises for the Permitted Uses. No other activity will be conducted at or from the Premises.
 - 5.2 Food Service. The Permitted Uses are further restricted as follows:
- 5.2.1 Lessee will use the Premises solely for the preparation and serving to Lessee's invitees and guests of fully prepared food and beverages (including alcoholic beverages if permitted by law) for immediate consumption upon the Premises. The preceding sentence does not prohibit a customer who purchases a bottle of wine from drinking only a portion of the wine and taking the remainder home in the bottle if the bottle has been resealed, if permitted, and in the manner prescribed by, law.
- 5.2.2 The business at the Premises must be operated as a restaurant and not as a bar or other type of establishment. For purposes of this Agreement, a business serving food is a restaurant and not a bar if it serves food but does not serve alcohol, or if it serves food and alcohol and satisfies all of the following requirements:

- 5.2.2.1 The business has in operation at the Premises a full service kitchen preparing and cooking (and not just heating or warming) entrees ordered by individual customers.
- 5.2.2.2 When the kitchen is open, the business' main menu offers at least 10 different entrees cooked in the kitchen and offered at prices comparable to prices for similar entrees offered by other restaurants in Maricopa County, Arizona.
- 5.2.2.3 The kitchen is open and offering the entrees at the Premises at all times the business is open for business, except that the kitchen may close 1 hour before the business closes.
- 5.3 <u>Animals</u>. No animals are allowed on the Premises other than seeing-eye dogs and similar animals providing health assistance to disabled persons. Customers' dogs on leashes are also permitted, if allowed by applicable laws and regulations from time to time.
- 5.4 <u>Governmental Relations</u>. Lessee will conduct its activities at the Premises in coordination with Lessor as necessary to maintain good relations with all governmental entities having jurisdiction over the Premises and will immediately give to Lessor notice of any actual or threatened dispute, violation or other disagreement relating to the Premises. Lessee is not an agent for Lessor.
- 5.5 <u>Lighting</u>. Exterior lighting must be shielded and otherwise configured to minimize spillover outside the specific lighted area within the Premises.
- 5.6 <u>Noise</u>. Except as Lessor may specifically allow from time to time, outdoor music and sound equipment is prohibited at the Premises. The doors to the restaurant must be kept closed when music is playing, except that doors may remain open at Lessor's sole discretion, from time to time. In exercising this discretion, Lessor may take into account any and all factors that Lessor determines influence or may influence the affect of the music or other noise upon the Premises and surrounding areas, and any activity or condition in the surrounding area, including without limitation, Lessor's desire to maintain a quiet and calm ambiance in surrounding areas.
- 5.7 <u>Liquor License</u>. Lessee may not hold a Series 6 liquor license for the Premises. Any liquor license that Lessee holds at the Premises must be limited to the Premises. This Agreement does not create in Lessee any rights with respect to liquor service outside the Premises. Upon termination of this Agreement for any reason, Lessee will cause the Premises to be removed from the scope of its liquor license. Lessee will cause all alcohol served at the Premises to be consumed on the Premises, except as provided in paragraph 5.2.1 above.
- 5.8 Lessee's Agent. Lessee will at all times during normal business hours or when the Premises are otherwise occupied retain on call and available to Lessor upon the Premises an active, qualified, competent and experienced manager to supervise all activities upon and operation of the Premises and who is authorized to represent and act for Lessee in matters pertaining to all emergencies and the day-to-day operation of the Premises and all activities under this Agreement. During any temporary periods of absence by the manager, an assistant manager or designated representative of Lessee with like authorization must be present upon the Premises. Lessee will also provide notice to Lessor of the name, address, and regular and after-

hours telephone numbers of a person to handle Lessee's affairs and emergencies at the Premises.

- 5.9 <u>Staff Qualifications and Requirements</u>. Except as Lessor may specifically allow from time-to-time, Lessee will provide to the Premises at least the following level of staffing and expertise:
- 5.9.1 Lessee will not allow any employee or other representative to work upon the Premises or in the vicinity of the Premises without first causing that person to confirm to Lessee in writing that he/she has not been convicted of a felony crime.
- 5.9.2 If Lessor requests, Lessee will make its employees available to Lessor from time to time for safety training and environmental training.
- 5.9.3 Lessee will immediately contact the Scottsdale Police Department, the Scottsdale Fire Department, or paramedics when any situation arises outside the capacity and training of Lessee's on-site employees.
- 5.9.4 Lessee is responsible for all aspects of security and safety at the Premises regardless of whether Lessor influences or participates in Lessee's security or safety programs.
- 5.9.5 Under the provisions of A.R.S. §41-4401, the Lessee warrants to the City that the Lessee and all its Subcontractors will comply with all Federal Immigration laws and regulations that relate to their employees and that the Lessee and all its Subcontractors now comply with the E-Verify Program under A.R.S. §23-214(A).

A breach of this warranty by the Lessee or any of its Subcontractors will be considered a material breach of this Agreement and may subject the Lessee or Subcontractor to penalties up to and including termination of this Agreement or any subcontract.

The City retains the legal right to inspect the papers of any employee of the Lessee or any Subcontractor who works on this Agreement to ensure that the Lessee or any Subcontractor is complying with the warranty given above.

The City may conduct random verification of the employment records of the Lessee and any of its Subcontractors to ensure compliance with this warranty. The Lessee agrees to indemnify, defend and hold the City harmless for, from and against all losses and liabilities arising from any and all violations of these statutes.

The City will not consider the Lessee or any of its Subcontractors in material breach of this Agreement if the Lessee and its Subcontractors establish that they have complied with the employment verification provisions prescribed by 8 USCA §1324(a) and (b) of the Federal Immigration and Nationality Act and the E-Verify requirements prescribed by A.R.S. §23-214(A). The "E-Verify Program" means the employment verification pilot program as jointly administered by the United States Department of Homeland Security and the Social Security Administration or any of its successor programs.

The provisions of this Article must be included in any contract the Lessee enters into with any and all of its Subcontractors who provide services under this Agreement or any subcontract. "Services" are defined as furnishing labor, time or effort in the State of Arizona by Page 7 of 39

a contractor of subcontractor. Services include construction or maintenance of any structure, building or transportation facility or improvement to real property. The Lessee will take appropriate steps to assure that all Subcontractors comply with the requirements of the E-Verify Program. The Lessee's failure to assure compliance by all its Subcontractors with the E-Verify Program may be considered a material breach of this Agreement by the City.

- 5.9.6 Compliance with Americans with Disabilities Act. Lessee acknowledges that, in accordance with the Americans with Disabilities Act (ADA), programs, services and other activities provided by a public entity to the public, whether directly or through a contractor, must be accessible to the disabled public. Lessee will provide the services specified in this Agreement in a manner that complies with the ADA and any and all other applicable federal, state and local disability rights legislation. Lessee agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided under this Agreement and further agrees that any violation of this prohibition on the part of Lessee, its employees, agents or assigns will constitute a material breach of this Agreement.
- 5.9.7 **Contracts with Sudan and Iran**. In accordance with A.R.S. §35-391.06 and 35-393.06, the Lessee certifies that it does not have scrutinized business operations in Sudan or Iran, as defined in A.R.S. §35-391(15) and 35-393(12).
- 5.10 <u>Security Requirements</u>. Lessee will participate in any public safety program promulgated from time to time by the City of Scottsdale Police Department or other law enforcement agency selected by Lessor from time to time. Lessee will reasonably cooperate with Lessor and the City of Scottsdale Police regarding concerns and countermeasures affecting security and related risks of business and other operations and activities at and near the Premises.
- 5.11 Standards of Service. In entering into this Agreement, Lessor and Lessee have foremost in mind providing the public and air travelers with food and beverage services and facilities of the highest quality. To accomplish this end, Lessee will serve and dispense only high quality foods and beverages, with portions and at prices at least comparable to, or more favorable to the customer than, those maintained at other similar restaurant facilities in the City of Scottsdale and at comparable airports, all as reasonably determined by Lessor. Lessee's initial price, quality and portion schedules will be subject to approval by the aviation director before Lessee's beginning of operations. Lessor may at any time, review Lessee's price, quality and portion schedules then in effect and may require that Lessee make any changes necessary for compliance with this paragraph. Lessee will operate the Premises in a first-class manner; will furnish prompt, clean and courteous service; and will keep the Premises attractively maintained. orderly, clean, sanitary and in an inviting condition at all times, all to the satisfaction of Lessor. Lessee will not employ any person or persons in or about the Premises who fail to be clean. courteous, efficient and neat in appearance or who use improper, obnoxious, profane or rude language or act in a loud or boisterous or otherwise improper manner.
- 5.12 <u>Conduct at Premises</u>. In entering into this Agreement, Lessor and Lessee have foremost in mind providing the public with an orderly atmosphere devoid of any act by any person contrary to the highest standards of community sensitivity, and avoiding any substance or appearance of any noisy, unruly, inebriated, disruptive, disorderly, lewd, nude, partially nude, adult oriented, unwholesome or sexually oriented behavior, business, entertainment, or other activity of any description or to any degree at the Premises. Any such behavior, business or activity at the

Premises by Lessee, any customer of Lessee or anyone else using the Premises in accordance with this Agreement is strictly prohibited. The requirements of this paragraph are specifically acknowledged to be a requirement of this Agreement independent of and in addition to any zoning or other governmental regulation affecting the Premises. Any violation of this paragraph by any person using the Premises in accordance with this Agreement will be an "Unruly Behavior Occurrence" by Lessee. To that end and without limitation, all of the following apply:

- 5.12.1 No materials will be displayed, viewed or produced upon the Premises depicting specified anatomical areas or specified sexual activities. Also, no person upon the Premises will make visible his or her specified anatomical areas. "Specified anatomical areas" means less than completely and opaquely covered human genitals, pubic region, buttock and female breast below a point immediately above the top of the areola; and human male genitals in a discernible turgid state, even if completely and opaquely covered, or any simulation or portrayal of any of the foregoing. All specified sexual activities are prohibited without exception. Specified sexual activities means human genitals in a state of sexual stimulation or arousal; acts of masturbation, sexual intercourse or sodomy; fondling or other erotic touching of human genitals, pubic region, buttock or female breast, or any simulation or portrayal of any of these activities.
- 5.12.2 Except as Lessor may specifically allow from time to time, patron dancing outdoors and any direct or indirect physical contact involving customers, employees, performers and other persons outdoors is prohibited.
- 5.12.3 Lessee will immediately cause to be removed from the Premises any person who:
- 5.12.3.1 Is obviously intoxicated or under the influence of any narcotic or chemical.
 - 5.12.3.2 Commits any act of violence.
 - 5.12.3.3 Acts in a loud or unusually boisterous manner.
 - 5.12.3.4 Harms or threatens harm to any person or thing.
 - 5.12.3.5 Uses profanity that can be heard by users of the Premises or

the public.

- 5.12.3.6 Violates any law or any regulation applicable to the Premises.
- 5.12.3.7 Commits or causes, directs or encourages any person to commit an Unruly Behavior Occurrence.
- 5.12.4 The requirements of this paragraph are only for the benefit of Lessor and for the benefit of all real property located within 300' of the Premises. The owners and occupants of the real property and their successors and assigns are third party beneficiaries to this paragraph throughout the term of this Agreement. Third party beneficiaries' sole remedy is injunctive relief against Lessee and other occupants of the Premises to enforce the requirements of this paragraph.

- Hazardous Materials. Lessee will not produce, dispose, transport, treat, use or store any hazardous waste or materials or toxic substance upon or about the Premises or any substance now or subsequently subject to regulation under the Arizona Hazardous Waste Management Act, A.R.S. §49-901 et seq., the Resource Conservation and Recovery Act, 42 U.S.C. §6901 et seq., or the Toxic Substances Control Act, 15 U.S.C. §2601 et seq., or any other federal, state, county, or local law pertaining to hazardous waste or toxic substances (collectively "Toxic Substances"). The preceding sentence does not prohibit use of ordinary janitorial supplies used to clean and maintain the Premises. Lessee will pay, indemnify, defend and hold Lessor harmless against any loss or liability incurred by reason of any Toxic Substance on or affecting the Premises occurring after the date of this Agreement, and will immediately notify Lessor of any Toxic Substance at any time discovered or existing upon the Premises. Lessee understands the hazards presented to persons, property and the environment by dealing with Toxic Substances. Lessee will cause any on-site or off-site storage, treatment, transportation, disposal or other handling of Toxic Substance by Lessee in connection with the Premises to be performed by persons, equipment, facilities and other resources who are at all times properly and lawfully trained, authorized, licensed and otherwise permitted to perform these services.
- 5.14 Exclusive Restaurant Use. Lessee has the exclusive right to operate a general restaurant business serving food and beverages within the existing Terminal Building. This exclusive right is limited to the existing Terminal Building and does not apply to vending machines or to any area or location other than the existing Terminal Building or to any use other than restaurant use. Nothing in this Agreement will prohibit Lessor or others from conducting any other business or activity of any type, including catering or other non-restaurant food or beverage businesses, at the Terminal Building or from operating any restaurant or other activity of any description elsewhere at the Airport. Nothing in this Agreement will be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308(a) of the Federal Aviation Act of 1958 (49 U.S.C. §1349).
- 5.15 <u>Nonexclusive Uses</u>. Lessee's right to prepare food upon the Premises includes the nonexclusive right when and if ordered by aircraft operators, crews or passengers to prepare and sell "in-flight meals" for immediate consumption aboard aircraft. This right, however, is not to be construed to prohibit any aircraft operators, crews or passengers from obtaining in-flight meals from other sources. Lessee also has the right to provide off-airport catering services, provided that Lessee first obtains any and all licenses and permits and tax registrations required by law and all these services must comply with this Agreement.
- 5.16 <u>Conflicts with other Tenants and Concessions</u>. In the event of any conflict between Lessee and any other lessee or concessionaire at the Terminal Building as to the items and merchandise to be sold by the respective lessees or concessionaires, Lessee agrees that the aviation director will make the final decision as to items of merchandise to be sold by any lessee or concessionaire, and Lessee agrees to be bound by this decision.
- 5.17 Hours of Operation. Lessee will keep the restaurant open for service to the public 7 days per week from at least 7 A.M. to 6 P.M. Monday through Friday,7 A.M. to 11 A.M. Saturday and 10 A.M. to 2 P.M. Sunday with service adequate to meet public demand, provided that Lessee has the right to close the restaurant on the following holidays: New Year's Day, Easter Sunday, Thanksgiving Day and Christmas Day. If Lessor determines in Lessor's reasonable discretion that public demand requires additional hours of operation, Lessor has the right to require that the restaurant be kept open until 9 P.M.

- 5.18 Common Areas. Subject to current and future regulations governing the use of, and access to, the Terminal Building and the Airport, Lessee, its officers, employees, agents, patrons and invitees, and its suppliers of service and furnishers of materials have the right of ingress to and egress from the Premises through all portions of the Terminal Building as are open to the public from time to time. This right is strictly limited to ingress and egress. All deliveries to the Premises will be made through the outside door to the Premises located adjacent to the north main door of the Terminal Building. Except for outdoor dining as expressly permitted by this Agreement, there will be absolutely no restaurant activity or storage, however temporary, in the outdoor portion of the Premises or in the halls, steps, porches or other areas of or surrounding the Terminal Building or the Airport. Lessee will immediately clean up any spills or debris caused by Lessee or its suppliers or customers. The back door of the Premises will remain closed at all times except during the actual act of bringing supplies in or disposing of trash.
- 5.19 Parking. Parking is subject to current and future regulations governing parking at the Terminal Building and the Airport. There are no guaranteed number of parking places available to the Premises. Lessee's patrons and invitees have the right to park motor vehicles in any parking spaces designated at the Airport from time to time as public parking areas. Lessee's employees will park in areas designated by Lessor from time to time. Vehicles making deliveries to the Premises will park only in areas specifically designated by Lessor from time to time as delivery areas.
- 5.20 <u>Airport Operations</u>. Lessee acknowledges that Lessee's use of the Premises is subject and subordinate to Lessor's operation of the Airport, which will necessarily directly and indirectly affect Lessee, the Premises, and Lessee's use of the Premises. Lessee's use of the Premises must not in any way adversely affect Lessor's use or operation of the Airport. Without limitation:
- 5.20.1 Lessor reserves the right to further develop or improve the landing area and other areas of the Airport as it sees fit, regardless of the desires or views of Lessee, and without interference or hindrance.
- 5.20.2 Lessor reserves the right but is not obligated to Lessee to maintain and keep in repair the landing area of the Airport and all publicly-owned facilities of the Airport, together with the right to direct and control all activities of Lessee in this regard.
- 5.20.3 There is reserved to Lessor, its successors and assigns, for the use and benefit of Lessor and the public, a right of flight for the passage of aircraft in the airspace above the surface of the Premises. This public right of flight includes the right to cause any noise inherent in the operation of any aircraft used for navigation or flight through the airspace or landing at, taking off from, or operation on the Airport.
- 5.20.4 Lessee by accepting this Agreement agrees for itself, its successors and assigns that it will not make use of the Premises in any manner that might interfere with the taxiing, landing and taking off of aircraft from the Airport, the loading or unloading of passengers or cargo or other aircraft operations or otherwise constitute a hazard. Whether any particular conduct complies with the foregoing will be determined solely by Lessor.
- 5.20.5 Lessee will permit the installation, maintenance and use within the Premises of apparatus for the Airport public address system.

- 5.21 <u>Signs</u>. Lessee has the right to install and operate two appropriate signs at the Terminal Building to identify Lessee's restaurant provided that all of the following conditions are met (Lessor in its sole discretion may authorize the placement of additional signs from time to time):
- 5.21.1 That the location, size and style of each sign is subject to the provisions of the applicable sign ordinance and will be in keeping with the Airport sign program as the same may change from time to time and with the overall aesthetics and utility of the Airport facilities and grounds, as determined by Lessor, and will be designed, made and installed in a professional manner; and
- 5.21.2 That no sign will be erected, installed or operated until Lessee has submitted a written request, together with descriptions and drawings showing the intended locations, size, style and colors of the signs, to the aviation director, and has received prior written approval from the aviation director; and
- 5.21.3 That regardless of signage existing from time to time, Lessor has the absolute right from time to time and without compensation to Lessee or any other person to require Lessee to conform to a new Airport sign program and to limit or reduce the amount of signage for the Premises to 1 single-faced, exterior sign facing the roadway west of the Terminal Building and one single-faced interior sign on the door of the Premises in the hall of the Terminal Building adjacent to the Premises, as directed by Lessor. At Lessor's election, Lessee will cause the exterior sign to be combined with other signage at the Terminal Building. Without Lessor's consent, the exterior sign will not exceed 2 square feet in gross sign area. Without Lessor's consent, the interior sign will not exceed 2 square feet in gross sign area.
- 5.21.4 That Lessee will bear all costs pertaining to the erection, installation, operations, maintenance and removal of all signs including, but not limited to, the application for and obtaining of any required building permits.
- 5.22 Name of Business. Lessee will operate the restaurant under Lessee's name given at the beginning of this Agreement, or if the name is not available or if Lessor and Lessee desire otherwise, any other name as Lessor may approve in Lessor's reasonable discretion. Following termination of this Agreement for any reason, Lessor has the exclusive right to use or allow others to use any name used to identify Lessee's business at the Premises and at other locations within and without the Airport, so long as Lessor does not use Lessee's name as stated at the beginning of this Agreement.
- 5.23 <u>Prohibited Names</u>. Lessee will not allow use in connection with any operations at the Premises any name that directly or indirectly refers to or contains any part of Lessor's name or the Airport's name or otherwise suggests a connection between Lessor and Lessee or Lessee's activities. Lessee will also not use, in connection with its operations at the Premises, any name associated with products or purveyors of any sort of alcohol, tobacco, adult entertainment or gambling related products or services.

VI. IMPROVEMENTS BY LESSOR

6. <u>Improvements by Lessor</u>. Lessor has not promised to and is not obligated in any manner to make any improvements or perform any construction or other work at the Premises.

VII. LESSEE'S IMPROVEMENTS GENERALLY

- 7. <u>Lessee's Improvements Generally</u>. The following provisions govern all improvements, repairs, installation, removal, demolition and other construction work of any description by Lessee whether or not specifically described in this Agreement (collectively "Lessee's Improvements") upon or related to the Premises:
- 7.1 Zoning and Similar Approval Processes. The zoning processes, building permit processes, and similar regulatory requirements that apply to Lessee's Improvements are completely separate from the plans approval processes under this Agreement. Lessee's satisfaction of any requirement of this Agreement does not count toward any compliance with any regulatory requirement. Lessee's satisfaction of any regulatory requirement does not count toward compliance with any requirement of this Agreement. Lessee must make all submittals and communications regarding the requirements of this Agreement through Lessor's contract administrator for this Agreement and not through planning, zoning, building safety or other staff. Lessee is responsible to directly obtain all necessary permits and approvals from any and all governmental or other entities having standing or jurisdiction over the Premises. Lessee bears sole responsibility to comply with all stipulations and conditions that are required in order to secure rezoning and other approvals.
- 7.2 Relationship of Plans Approval to Regulatory Processes. Lessee's submission of plans under this Agreement, Lessor's approval of plans for purposes of this Agreement, and the plans approval process under this Agreement, are separate and independent of all development, zoning, design review and other regulatory or similar plans submittal and approval processes, all of which will continue to apply in addition to the requirements of this Agreement and its approvals. BUILDING PERMITS, ZONING CLEARANCES, OR ANY OTHER GOVERNMENTAL REVIEWS OR ACTIONS DO NOT CONSTITUTE APPROVAL OF ANY PLANS FOR PURPOSES OF THIS AGREEMENT.
- 7.3 <u>Contract Administrators</u>. Upon execution of this Agreement, Lessor and Lessee will each designate a contract administrator to coordinate the respective party's participation in designing and constructing the Lessee's Improvements. Each contract administrator will devote such time and effort to the Lessee's Improvements as may be necessary for timely, good faith, and convenient coordination among the parties and their representatives involved with the Lessee's Improvements and compliance with this Agreement.
- 7.4 <u>Lessor's Contract Administrator</u>. Lessor's contract administrator will not be exclusively assigned to this Agreement or the Lessee's Improvements. Lessor's initial contract administrator is Lessor's Aviation Management Analyst. Lessor's contract administrator's authority with respect to the Premises is limited to the administration of the requirements of this Agreement. No approval, consent or direction by Lessor's contract administrator or other persons affiliated with Lessor inconsistent with this Agreement is binding upon Lessor. Lessee is responsible for securing all zoning approvals, development review, and other governmental approvals and for satisfying all governmental requirements pertaining to the Lessee's Improvements and will not rely on Lessor or Lessor's contract administrator for any of the same.
- 7.5 <u>Lessor's Fixtures and Personalty</u>. Lessee will not remove, alter or damage in any way any improvements or any personal property of Lessor upon the Premises without Lessor's 8975568v2 Page 13 of 39

prior written approval. In all cases, Lessee will repair any damage or other alteration to Lessor's property to as good or better condition than existed before the damage or alteration.

- 7.6 <u>Design Requirements</u>. All Lessee's Improvements will comply with the following design requirements:
- 7.6.1 All Lessee's Improvements must be contained entirely within the Premises and without any encroachment or dependence upon any other property.
- 7.6.2 All Lessee's Improvements must be designed and made at Lessee's sole cost and expense.
- 7.6.3 Lessee will perform any and all construction work on the Premises in a workman-like manner as reasonably determined by Lessor and in conformance with all building codes and similar rules. All Lessee's Improvements will be and become part of the realty and the real property of Lessor "brick by brick" as constructed. In any event, Lessee must leave the Premises in as good or better condition as it may be on the date of this Agreement, or such better condition as the Premises may subsequently be placed.
- 7.6.4 All work must be done strictly at Lessee's expense and paid for by Lessee. In no event, including without limitation termination of this Agreement for any reason, will Lessor be obligated to compensate Lessee in any manner for any of Lessee's Improvements or other work provided by Lessee during or related to this Agreement.
- 7.6.5 Lessee's Improvements includes all improvements, furnishings, furniture, equipment, fixtures, paint, decorations, lighting and other construction work of any description as described in all plans delivered by Lessee to Lessor. All plans and construction are subject to inspection and final approval by Lessor as to colors, fabrics, materials, site plan, etc., as well as design, function and appearance.
- 7.6.6 Lessee will make no alterations, modifications or additions to the Premises without having first received the written consent of Lessor that Lessor may withhold in Lessor's sole and absolute discretion.
 - 7.6.7 Any changes to utility facilities are strictly limited to the Premises.
- 7.6.8 All Lessee Improvements will be designed so as to present uniformity of design, function, appearance and quality throughout and consistency with the design of the restaurant.
- 7.6.9 All of Lessee's Improvements must be of high quality, safe, modern in design, and attractive in appearance, all as approved by Lessor.
- 7.7 <u>Plans Required</u>. Lessee's design of all of Lessee's Improvements will occur in 3 stages culminating in final working construction documents for the Lessee's Improvements (the "Final Plans"). The 3 stages are, in order of submission and in increasing order of detail, as follows:

- 7.7.1 Conceptual plans showing the general layout, locations, configuration, and capacities of all significant improvements, utilities, and other features significantly affecting the appearance, design, function or efficient operation of each element of the Lessee's Improvements.
- 7.7.2 Preliminary plans showing all floor plans, general internal and external building design and decoration schemes, mechanical, electrical and plumbing systems, landscaping and all other elements necessary before preparation of final working construction documents and showing compliance with all requirements of this Agreement. The preliminary plans must show all detail necessary before preparation of final plans.
- 7.7.3 Final working construction documents for the Lessee's Improvements (collectively the "Final Plans").
- 7.8 <u>Approval Process</u>. The following procedure will govern Lessee's submission to Lessor of all plans, including any proposed changes by Lessee of previously approved plans:
- 7.8.1 All plans submitted under this Agreement must show design, appearance, style, landscaping, mechanical, utility, communication and electrical systems, building materials, layout, colors, views, and other information reasonably considered necessary by Lessor for a complete understanding of the work proposed, all in detail reasonably considered appropriate by Lessor for the level of plans required by this Agreement.
- 7.8.2 Lessee must deliver all plan submissions for non-regulatory approvals directly to Lessor's project manager and will clearly label the submissions to indicate that they are submitted in accordance with this Agreement and not for building permits, zoning or other approvals. Each submittal of plans by Lessee for Lessor's review will include 5 complete sets of the plans on paper together with 2 copies of the plans in electronic form. Within 30 days after completion of any Lessee's Improvements, Lessee will deliver to Lessor 1 copy of "as-built" plans for the Lessee's Improvements, on paper and 2 copies in electronic form. All plans in electronic form must include vector line drawings of the improvements and any other information as this Agreement requires, all in a machine readable and manipulateable form. The format of this data and the media upon which this data is supplied must be in a reasonably common data format and media as specified from time to time by Lessor.
- 7.8.3 All plans must comply with all requirements of law and this Agreement. No plans will be considered approved by Lessor until Lessor's contract administrator stamps them "APPROVED AS OF ______, 20___ ONLY FOR PURPOSES OF THE PLANS APPROVAL REQUIREMENTS OF ARTICLE SEVEN OF THE LEASE AGREEMENT NO. 2011-121-COS" and dates them (collectively "Stamped").
- 7.8.4 All sheets of engineering work for Lessee's Improvements must bear these words: "The engineer has performed this work for the benefit and reliance of the City of Scottsdale and assures the City of Scottsdale that the engineer's work is properly performed and that it complies with any engineering requirements set out in the Lease Agreement No. 2011-121-COS."
- 7.8.5 Lessee acknowledges that Lessor has a substantial interest in the design construction and operation of the Lessee's Improvements. No construction, reconstruction,

alteration or other individually or cumulatively significant work will occur upon the Premises except in compliance with plans approved by Lessor in accordance with this Agreement.

- 7.8.6 Lessor has the right to require Lessee to submit any Lessee Improvements to the City of Scottsdale Design Review Board or any similar body for approval.
- 7.8.7 Lessee will coordinate with Lessor as necessary on significant design issues before preparing plans to be submitted.
- 7.8.8 Submission dates will be the dates as are necessary for Lessee to timely obtain the approvals required by this Agreement.
- 7.8.9 Within 30 days after Lessor's receipt of plans from Lessee, Lessor will hand deliver to Lessee 1 copy of the plans submitted Stamped, or marked to indicate the changes that would be necessary in order for Lessor to approve the plans.
- 7.8.10 If changes are required, Lessee will revise the plans incorporating the changes requested by Lessor and will, within 30 days after Lessor returns the marked up plans to Lessee, submit to Lessor the revised plans. Within 20 days after Lessor's receipt of the plans, Lessor will hand deliver to Lessee 1 copy of the revised plans Stamped.
- 7.8.11 The parties will endeavor to resolve any design and construction issues to their mutual satisfaction but, in the event of an impasse for any reason or however arising, as a condition of Lessor's entering into this Agreement, final decision authority regarding all design and construction issues rests with Lessor.
- 7.8.12 Lessee will provide copies of any and all designs or plans for improvements upon the Premises to Lessor for Lessor's unrestricted use at the Premises or elsewhere.
- 7.9 <u>Time for Completion</u>. Lessee will diligently and expeditiously pursue to completion the construction of all approved Lessee's Improvements. Lessee will complete initial construction of the Project no later than the Completion Deadline. Lessee will complete construction of all of Lessee's other Improvements no later than the earlier of: (i) 6 months after the date of final plan approval; or (ii) any earlier date required by this Agreement or Lessor's plans approval.
- 7.10 <u>Construction Reports</u>. Lessee will provide to Lessor a monthly notice containing a narrative report of the progress of design and construction of Lessee's Improvements.
- 7.11 <u>Design and Construction Professionals</u>. All construction and plans preparation for the Lessee's Improvements from initial proposals through final construction documents and completion of construction will be performed by licensed professionals selected and paid by Lessee. All of Lessee's design and construction contractors must have substantial experience in timely and successfully constructing projects similar to the Project.
- 7.12 <u>Construction Assurances</u>. In addition to any other payment or performance required under this Agreement, at Lessor's exclusive option, Lessee will, before beginning any construction work by Lessee at the Premises, provide to Lessor bonds, letters of credit, or other assurances acceptable to Lessor in Lessor's sole and absolute discretion that the contractor will properly and timely complete the work and that Lessee will pay for the work. Lessee will deliver Page 16 of 39

directly to Lessor's legal department (together with a copy to Lessor as provided for notices under this Agreement) a full and complete draft of all bonds or other assurances and all related and supporting documentation at least 30 days before the date the actual bond or assurance is required.

VIII. MAINTENANCE

- 8. <u>Maintenance</u>. Lessee will at all times repair and maintain the Premises at Lessee's sole expense in a first-class, sound, clean and attractive manner, as determined in Lessor's reasonable discretion, and also in compliance with the following:
- 8.1 <u>Improvements by Lessor</u>. Lessor has not promised to and is not obligated in any manner to make any improvements to the Premises, the Terminal Building or the Airport. Nevertheless, Lessor has the right at its sole expense and in its sole discretion to make improvements to the Premises, the Terminal Building and the Airport during the term of this Agreement. Without limitation, Lessor may elect to construct a runway underpass road north of the Premises, which may result in material construction activity, altered traffic patterns and other changes to and about the Premises.
- 8.2 <u>Maintenance by Lessor</u>. Lessor will maintain the structural integrity of the portions of the Terminal Building comprising the Premises (including without limitation doors, roof, main air conditioning and heating units, exterior walls). Lessor is not responsible for maintenance of a routine or minor nature.
 - 8.3 <u>Maintenance by Lessee</u>. Lessee is responsible for the following:
 - 8.3.1 Janitor and all other cleaning service in the Premises.
- 8.3.2 Light janitor service in the Terminal Building restrooms once each day; time of day and scope of service to be decided by the contract administrator.
- 8.3.3 Interior washing of all windows and interior and exterior washing of all lamps.
- 8.3.4 Adequate and sanitary handling and disposal, away from the Airport, of all trash, garbage and other refuse related to Lessee's use of the Premises.
- 8.3.5 Cleaning and servicing of all drains, grease traps, sewers and plumbing within the Premises together with cleaning of drains and sewers to the point of connection with the main public sewer system. During the term of this Lease, Lessee shall provide a maintenance contract for the care and upkeep of all drains, grease traps and sewer services.
 - 8.3.6 Cleaning all HVAC ducts within or serving the Premises.
- 8.3.7 Provide routine and minor maintenance for main air conditioning and heating units. Routine and minor maintenance shall be defined as preventative maintenance and repairs that do not exceed \$800.00 per service or repair. During the term of this Lease, Lessee shall provide a maintenance contract for the care and upkeep of the HVAC system.

- 8.3.7.1 Preventative maintenance for main air conditioning and heating units shall include changing air filters every 3 months (minimum) and servicing the air conditioning and heating units every 6 months.
- 8.3.7.2 The 6th month service shall include but not limited to: cleaning condenser and evaporator coils, checking electrical connections, check compressors/motors amperage to be within nameplate rating, checking refrigerant charge, and overall condition of the unit.
- 8.3.8 Lessee shall provide for the Lessor review and approval, a written service contract agreement provided by a licensed HVAC contractor outlining services to be provided as described above. Service agreement must be in place 30 days after signing of the lease agreement
- 8.3.9 All other repairs and maintenance of the Premises not specifically required to be performed by Lessor, except that if it is determined by the City that the failure of any of the systems described in this Section is due to the negligence of the Lessee, the Lessee will be responsible for the costs of any such repairs.
- 8.4 <u>Trash Receptacles</u>. Lessee will provide and use suitable covered receptacles for all trash and other refuse related to Lessee's use of the Premises. Piling of boxes, cartons, barrels or other items outside the Premises or in a manner visible from outside the Premises or in a manner visible to areas open to the public is forbidden. Lessee will keep the area in which trash containers are stored clean and free of all trash and debris and shielded from public view. Lessee acknowledges that the dumpster currently located near the Terminal Building will likely be relocated from time to time to other locations in the general vicinity of the Terminal Building.

8.5 <u>Sanitation, Hygiene, and Cleanliness.</u>

- 8.5.1 Lessee shall keep the Premises, along with any service pathways used by Lessee, clean, well-maintained and free of garbage, unpleasant odors, and hazardous conditions and notify Lessor promptly of hazardous conditions in the public areas outside the Premises.
- 8.5.2 Lessee shall provide a complete and sanitary handling of all garbage and recyclables generated as a result of operations on the Premises, and shall provide for its timely removal to the central collection point provided by Lessor. At no time shall Lessee accumulate garbage or recyclables outside the Premises or within passenger view.
- 8.5.3 Lessee shall keep all garbage and recyclable materials in durable, fly-and rodent-proof, fireproof containers that are easily cleaned. The containers shall have tight-fitting lids, doors, or covers, and shall be kept covered when material is not being deposited in them and shall be cleaned as necessary to prevent odors. Boxes, cartons, barrels, or other conveyance items shall be disposed of promptly by Lessee and not remain within passenger view. Lessor shall be responsible for handling and removal of garbage deposited by customers in public areas.

- 8.5.4 Lessee is responsible for the regular and routine cleaning, inspection and maintenance of used cooking oil tallow bins and their surrounding areas, sewer lines, grease traps and interceptors, exhaust hood and vents, and all unit drains associated with the Premises.
- 8.5.5 Lessee shall retain within the premises, and available upon Lessor's request, all equipment servicing schedules, maintenance logs and invoices documenting any and all routine inspections, services and cleanings of any equipment including, but not limited to: used cooking oil tallow bins; grease traps and interceptors and their associated pumping(s); jetting/augering of sewer lines; exhaust hood and vents; fire suppression equipment inspections; and pest control services.
- 8.5.6 Lessor recommends, at a minimum, grease traps and interceptors be serviced quarterly, sewer lines be jetted and augered semi-annually, used cooking oil tallow bins be pumped as needed, and the areas surrounding the used cooking oil tallow bins be cleaned monthly or more frequently if needed. Lessor reserves the right to require Lessee to increase the frequency of these cleanings if found necessary by Lessor. Lessor reserves the right to establish and implement "line-jetting" protocols to be implemented by Lessee. Lessee shall use a "Liquid Wastewater Treatment" or "Bio-Augmentation Treatment" for all drain lines (sinks, mop sinks, floor drains, etc.) monthly or in accordance with manufacturer's specifications.
- 8.5.7 Lessor reserves the right to require Lessee to increase the frequency of inspections and services based on Gross Sales and the condition in which the restaurant is kept. Lessee shall also be responsible for any emergency grease interceptor cleanings and/or grease interceptor line jettings.
- 8.5.8 Lessee shall take appropriate action to exterminate and prevent the presence of rodents and other vermin within the Premises and within all Lessee on-Airport support space areas.
- 8.5.9 Lessee shall provide for Lessor's approval a schedule for the routine inspections, services, and cleanings required in Section 9.5.6 along with a Quality Control/Quality Assurance (QC/QA) plan that covers these services and the regular and routine cleaning of the Premises and any service pathways leading to and from the Premises. The schedule shall be updated accordingly with Lessor when changes are made. Lessor reserves the right to add items as necessary to Lessee's QC/QA plan to ensure Lessee is conducting regular and routine cleanings, inspections and maintenance.
- 8.5.10 Lessee shall retain, within the premises, copies of all Maricopa County Environmental Services Department (MCESD) or State of Arizona health inspection reports and provide copies upon Lessor's request. If a health inspection results in a poor inspection report, Lessee shall prepare and submit to Lessor, within twenty-four (24) hours, a written summary of the nature of the inspection and the inspector's findings, as communicated to Lessee and provide copies of any and all report documents.

IX. BREACH BY LESSEE

- 9. <u>Breach by Lessee</u>. Lessee will comply with, perform and do each performance and thing required of Lessee and Lessee's failure to do so will be a breach by Lessee of this Agreement.
- 9.1 <u>Events of Default</u>. This entire Agreement is made upon the condition that each and every one of the following events is considered an "Event of Default" and a material breach by Lessee of Lessee's material obligations under this Agreement:
- 9.1.1 If Lessee is in arrears in the payment of Rent and does not cure the arrearage within 10 days after Lessor has notified Lessee in writing of the arrearage.
 - 9.1.2 If Lessee fails to maintain the Premises as required in this Agreement.
- 9.1.3 If Lessee fails to operate the facilities for a period of 3 consecutive days or a total of 5 days within any calendar year.
- 9.1.4 If any health inspector or similar inspector issues any formal notice of violation of health regulations in connection with Lessor's use of the Premises or determines during any 2 of 4 consecutive inspections that the same health violation has been repeated or that the overall operation falls materially below standards for first rate well operated restaurants in Maricopa County.
- 9.1.5 If any assignment of any of Lessee's property is made for the benefit of creditors.
- 9.1.6 If any representation or warranty made by Lessee in connection with this Agreement or the negotiations leading to this Agreement proves to have been false in any material respect when made.
- 9.1.7 If Lessee fails to observe and comply with all bidding requirements of Lessor with respect to this Agreement and with all performances promised by Lessee with respect to Lessee's bid submitted.
- 9.1.8 If Lessee fails to timely pay any taxes or other amounts to be paid by Lessee to Lessor or to any other person.
- 9.1.9 If Lessee fails to obtain or maintain any licenses, permits, or other governmental approvals from Lessor or any other governmental body or timely pay any taxes, with respect to this Agreement, the Premises or Lessee's use of the Premises.
- 9.1.10 If any environmental, health or similar inspector issues any formal notice of investigation or violation of health, environmental or similar regulations in connection with Lessee's use of the Premises or determines during any 2 or more consecutive inspections that the same deficiency has been repeated or that the overall operation falls materially below standards for first rate well operated similar facilities in Maricopa County.
- 9.1.11 If Lessee does not complete construction of the Project or any of Lessee's Improvements within the times required by this Agreement.

- 9.1.12 If the issuer of any guaranty, letter of credit, bond, insurance policy or similar instrument fails for any reason to timely and fully honor any request by Lessor for funds or other performance under the instrument within 10 days after any request.
- 9.1.13 If Lessee engages in a pattern of repeated failure (or neglect) to timely do or perform or observe any provision of this Agreement. Three (3) or more failures to comply with any provision of this Agreement during any 90 day period or 6 or more failures to comply with any provision of this Agreement during any 12 month period constitute a repeated failure by Lessee to comply with that provision.
- 9.1.14 If Lessee fails to or neglects to do or perform or observe any other provisions of this Agreement and this failure or neglect continues for a period of 30 days after Lessor has notified Lessee in writing of Lessee's default.
- 9.2 <u>Lessor's Remedies</u>. Upon the occurrence of any Event of Default or at any later time, Lessor may, at its option and from time to time, without further demand or notice, exercise any or all or any combination of the following remedies in any order and repetitively at Lessor's option:
 - 9.2.1 Terminate this Agreement.
- 9.2.2 Enter into and upon the Premises or any part of the Premises and expel Lessee and those claiming by, through or under it, and remove their effects, if any, forcibly if necessary, without being considered guilty of trespass and without prejudice to any other remedy.
- 9.2.3 Enforce a lien (which is granted to Lessor) upon Lessee's property at the Premises now or at any later time, securing all of Lessee's obligations under this Agreement.
- 9.2.4 Cause a receiver to be appointed for the Premises and for the continuing operation of Lessee's business.
- 9.2.5 Pay or perform, for Lessee's account and at Lessee's expense, any or all payments or performances required to be paid or performed by Lessee.
 - 9.2.6 Abate at Lessee's expense any violation of this Agreement.
- 9.2.7 Pursue at Lessee's expense any and all other remedies, legal or equitable, to which Lessor may be entitled.
- 9.2.8 Refuse without any liability to Lessee to perform any obligation imposed on Lessor by this Agreement.
 - 9.2.9 Be excused from further performance under this Agreement.
- 9.2.10 Despite anything in this Agreement to the contrary, unilaterally and without Lessee's or any other person's consent or approval, draw upon, withdraw or otherwise realize upon or obtain the value of any letter of credit, escrowed funds, insurance policies, or other deposits, sureties, bonds or other funds or security held by Lessor or pledged or otherwise

obligated to Lessor by Lessee or by any third party (whether or not specifically mentioned herein) and use the proceeds for any remedy permitted by this Agreement.

- 9.2.11 Insist upon Lessee's full and faithful performance of this Agreement and upon Lessee's full and timely payment of all Rent during the entire remaining term of this Agreement.
 - 9.2.12 Assert or exercise any other right or remedy permitted by law.
- 9.3 Power of Attorney. For the purpose of exercising any of Lessor's rights or remedies, Lessee irrevocably appoints Lessor as Lessee's true and lawful attorney in fact, and this power of attorney is considered to be a power coupled with an interest that cannot be revoked for any reason, to pay or perform, for Lessee's account and at Lessee's expense, any or all required payments or performances to be paid or performed by Lessee, to terminate of record this Agreement, to enter into and upon the Premises or any part of the Premises, and to perform any act upon the Premises considered necessary by Lessor to exercise its rights under this Agreement.
- 9.4 <u>Notice of Breach</u>. Lessee will promptly give notice to Lessor of any event or circumstance that is (or with the passing of time or the giving of notice or both will become) an Event of Default under this Agreement.
- 9.5 Non-waiver. Lessee acknowledges Lessee's unconditional obligation to comply with this Agreement. No failure by Lessor to demand any performance required of Lessee under this Agreement, and no acceptance by Lessor of any imperfect or partial performance under this Agreement, will excuse any performance or impair in any way Lessor's ability to insist, prospectively and retroactively, upon full compliance with this Agreement. No acceptance by Lessor of Rent or other performances will be considered a compromise or settlement of any claim Lessor may have for additional or further payments or performances. Any waiver by Lessor of any breach of condition or covenant contained to be kept and performed by Lessee will not be considered as a continuing waiver and will not operate to bar or otherwise prevent Lessor from declaring a default for any breach or succeeding breach either of the same condition or covenant or otherwise. No statement, bill or notice by Lessor concerning payments or other performances due will excuse Lessee from compliance with this Agreement nor estop Lessor (or otherwise impair Lessor's ability) to at any time correct the notice and insist prospectively and retroactively upon full compliance with this Agreement. No waiver of any description (including any waiver of this sentence or paragraph) will be effective against Lessor unless made in writing by a duly authorized representative of Lessor specifically identifying the particular provision being waived and specifically stating the scope of the waiver. LESSEE EXPRESSLY DISCLAIMS AND DOES NOT HAVE THE RIGHT TO RELY ON ANY SUPPOSED WAIVER OR OTHER CHANGE OR MODIFICATION, WHETHER BY WORD OR CONDUCT OR OTHERWISE, NOT CONFORMING TO THIS PARAGRAPH.
- 9.6 <u>Reimbursement of Lessor's Expenses</u>. Lessee will pay to Lessor upon demand any and all amounts expended or incurred by Lessor in performing Lessee's obligations.
- 9.7 <u>Inspection</u>. Lessor has access to the Premises at all times upon reasonable prior notice (except, in the event of an emergency, without notice) for the purpose of examining, inspecting, evaluating, planning, repairing, designing, maintaining or showing the Premises or 8975568v2

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exercising Lessor's other rights. Lessee will promptly undertake appropriate action to rectify any deficiency (identified by Lessor during any inspections or otherwise) in Lessee's compliance with this Agreement. This paragraph does not limit Lessor's other rights of access to the Premises as provided elsewhere in this Agreement or otherwise.

9.8 <u>Default by Lessor</u>. Despite anything in this Agreement to the contrary, in the event Lessor at any time is required to pay to Lessee any amount or render any performance, the amount or performance is not due until 30 days after notice by Lessee to Lessor that the amount has become payable or that the performance is due. If a cure cannot be effected during that period, Lessor will not be in default so long as Lessor commences cure during the period and diligently prosecutes the cure to completion provided the cure must be completed within 60 days after it is due.

X. TERMINATION

- 10. <u>Rights at Termination</u>. The following provisions apply upon expiration or other termination of this Agreement at any time for any reason:
- 10.1 <u>Surviving Obligations</u>. Lessee's obligations existing or arising before or simultaneous with, or attributable to, the termination or events leading to or occurring before termination will survive and not terminate.
- 10.2 <u>Delivery of Possession</u>. Lessee will, without demand, peaceably and quietly quit and deliver up the Premises to Lessor thoroughly cleaned, in good repair, maintained and repaired and in as good order and condition, reasonable use and wear excepted, as the same now are or in such better condition as the Premises may subsequently be placed by Lessee or Lessor.
- 10.3 <u>Continuation of Business</u>. Upon termination of this Agreement, through passage of time or otherwise, Lessee will aid Lessor, unless directed otherwise by Lessor, in all ways possible in continuing uninterruptedly the business of operating the restaurant as described in this Agreement.
- 10.4 <u>Confirmation of Termination</u>. Lessee will provide to Lessor upon demand quit claim deeds covering the Premises executed by Lessee and by all persons who claim that they have received from or through Lessee any interest in or right to use the Premises or any interest in Lessee's rights under this Agreement.
- 10.5 Fixtures and Improvements. If the same has not occurred earlier, title to any and all fixtures and structural or permanent improvements placed upon the Premises by Lessee together with all irrigation equipment, walkways, sockets, railings, and all other equipment and personal property of every description attached or affixed to the Premises will automatically vest in Lessor without any payment by Lessor or any compensation to Lessee and without requirement of any deed, conveyance, or bill of sale. The preceding sentence does not apply to other personal property that is not physically attached in any way to the Premises. However, if Lessor requests any confirming documents, Lessee will promptly execute, acknowledge and deliver the same. Lessee will assign and deliver to Lessor all operating manuals, warranties and similar materials pertaining to all personal property transferred to Lessor. Further, Lessee will at its own expense, but only to the extent requested by Lessor in writing, remove and dispose of any property and any fixtures and structural or permanent improvements placed upon the Premises by Lessee and

completely repair the Premises to match adjacent finishes. Lessor may, in the exercise of its sole and absolute discretion, consider any Lessee property remaining on or about the Premises after the time for removal, abandoned and subject to removal, storage and disposal by Lessor at Lessee's expense and without compensation or accounting.

XI. <u>INDEMNITY AND INSURANCE</u>

- 12. <u>Indemnity and Insurance</u>. During the entire term of this Agreement, Lessee must insure the Premises and all property and activities at and about the Premises and provide indemnification as follows:
- 12.1 <u>Insurance Required</u>. Before entering, occupying or using the Premises in any way (and in any event, commencing not later than 5 days after the date of this Agreement) and at all times subsequent, Lessee must obtain and cause to be in force and effect the following insurance:
- 12.1.1 Commercial General Liability. Commercial general liability insurance with a limit of \$1,000,000 for each occurrence, a limit of \$2,000,000 for products and completed operations annual aggregate, and a limit of \$2,000,000 general aggregate limit per policy year. The policy must cover liability arising from the Premises, operations, independent contractors, products, completed operations, personal injury, bodily injury, advertising injury, and liability assumed under an "insured contract" including this Agreement. The policy must cover Lessee's liability under the indemnity provisions of this Agreement. The policy must contain a "separation of insureds" clause.
- 12.1.2 <u>Liquor Liability</u>. Liquor liability insurance in an amount not less than \$1,000,000 for each claim and \$2,000,000 for all claims in the aggregate. This coverage is required at all times when alcohol is being consumed, sold, or served at the Premises, or when Lessee holds any type of liquor license for the Premises, or when any liquor license otherwise exists with respect to the Premises.
- 12.1.3 <u>Automobile Liability</u>. Automobile liability insurance with a combined single limit of \$1,000,000 for each accident covering any and all owned, hired, and non-owned vehicles assigned to or used in any way in connection with Lessee's use of the Premises. Without limitation, this insurance must cover hazards of motor vehicle use for loading and off loading.
- 12.1.4 Workers' Compensation. Any workers' compensation and similar insurance as is required by law and employer's liability insurance with a minimum limit of \$100,000 for each accident, \$100,000 disease for each employee, \$500,000 policy limit for disease. All contractors and subcontractors must provide like insurance.
- 12.1.5 Special Risk Property. Unless waived by Lessor in writing, all risk property insurance covering damage to or destruction of all buildings and other improvements to the Premises, including without limitation, all improvements existing upon the Premises before this Agreement or subsequently constructed in an amount equal to full replacement cost of all the improvements. The insurance must be special causes of loss policy form (minimally including perils of fire, lightning, explosion, windstorm, hail, smoke, aircraft, vehicles, riot, civil commotion, theft, vandalism, malicious mischief, collapse and flood).

- 12.1.6 <u>Personal Property</u>. Lessee must maintain special causes of loss personal property coverage, as defined by Insurance Services Office, Inc., in an amount per occurrence equal to full replacement cost of all personal property used in connection with the Premises.
- 12.1.7 Builders' Risk Property Insurance. Builders' risk insurance in the amount of the entire cost of the Project or other construction work at or related to the Premises as well as subsequent modifications thereto. Any builder's risk insurance must be maintained until final payment for the construction work and materials has been made and until no person or entity other than Lessee and Lessor has an insurable interest in the Premises, whichever is later. This insurance will include interests of Lessor, Lessee and all subcontractors and sub-subcontractors involved in any Lessee's Improvements or other construction work at or related to the Premises during the course of any construction, and must continue until all work is completed and accepted by Lessee and Lessor. Lessee bears full responsibility for loss or damage to all work being performed and to works under construction. Builders' risk insurance must be on a special causes of loss policy form (covering at least the perils of fire, lightening, explosion, windstorm and hail, smoke, aircraft and vehicles, riot and civil commotion, theft, vandalism, malicious mischief, collapse and flood) and must also cover false work and temporary buildings and must insure against risks of direct physical loss or damage from external causes including debris removal and demolition occasioned by enforcement of any applicable legal requirements, and cover reasonable compensation for architect's service and expenses required as a result of any insured loss and other "soft costs". Builders' risk insurance must provide coverage from the time any covered property comes under Lessee's control and responsibility, and continue without interruption during construction or renovation or installation, including any time during which the covered property is being transported to the construction or installation site, and while on the construction or installation site awaiting installation. The policy will continue to provide coverage when the covered Premises or any part thereof are occupied. Builders' risk insurance must be primary and not contributory.
- 12.1.8 Other Insurance. Any other insurance Lessor may reasonably require for the protection of Lessor and Lessor's employees, officials, representatives, officers and agents (all of whom, including Lessor, are collectively "Additional Insureds"), the Premises, surrounding property, Lessee, or the activities carried on or about the Premises.
- 12.1.9 <u>Limit and Other Adjustments</u>. Lessor may elect by notice to Lessee to increase the amount or type of any insurance to account for inflation, changes in risk, or any other factor that Lessor reasonably determines to affect the prudent type or amount of insurance to be provided.
- 12.2 <u>Form of All Insurance</u>. All insurance provided by Lessee with respect to the Premises, whether required by this Agreement or not, and all insurance provided by third parties under this Agreement, must meet the following requirements:
- 12.2.1 "Occurrence" coverage is required. "Claims made" insurance is not permitted.
- 12.2.2 If Lessee uses any excess insurance then this excess insurance must be "follow form" equal to or broader in coverage than the underlying insurance.
 - 12.2.3 Policies must also cover and insure Lessee's activities relating to the

business operations and activities conducted away from the Premises.

- 12.2.4 Lessee must clearly show by providing copies of insurance policies, certificates, formal endorsements or other documentation acceptable to Lessor that all insurance coverage required by this Agreement is provided.
 - 12.2.5 Lessee's insurance must be primary insurance.
- 12.2.6 All policies, including workers' compensation, must waive transfer rights of recovery (subrogation) against Lessor, and the other Additional Insureds.
- 12.2.7 No deductibles, retentions, or "self insured" amounts may exceed \$100,000.00 in the aggregate per year, per policy. Lessee is solely responsible for any self-insurance amount or deductible.
 - 12.2.8 No deductible is applicable to coverage provided to Lessor.
- 12.2.9 Lessor may require Lessee from time to time to secure payment of any deductible or self-insured retention by a surety bond or by a clean, irrevocable and unconditional letter of credit in content and form satisfactory to the city attorney's office.
- 12.2.10 All policies must contain provisions that neither Lessee's breach of a policy requirement or warranty, nor failure to follow claims reporting procedures, will affect coverage provided to Lessor.
- 12.2.11 All policies except workers' compensation must cover Lessor and the other Additional Insureds as additional insureds. Lessee will cause coverage for Additional Insureds to be incorporated into each insurance policy by endorsement.
- 12.2.12 All applicable policies must name Lessor as a loss payee as respects proceeds relating to the Premises.
- 12.2.13 All policies must be endorsed to provide Lessor with at least 30 days prior notice of cancellation or 10 days before notice of cancellation for non-payment of premiums.
- 12.2.14 All policies must require that notices be given to Lessor in the manner specified for notices to Lessor under this Agreement.
- 12.3 <u>Insurance Certificates</u>. Lessee must evidence all insurance by furnishing to Lessor certificates of insurance annually and with each change in insurance coverage. Certificates must evidence that the policy described by the certificate is in full force and effect and that the policy satisfies each requirement of this Agreement applicable to the policy. For example, certificates must evidence that Lessor and the other Additional Insureds are additional insureds and that insurance proceeds will be paid as required by this Agreement. Certificates must be in a form acceptable to Lessor. All certificates are in addition to the actual policies and endorsements required. Lessee will provide updated certificates at Lessor's request.
- 12.4 <u>Acceptable Insurers</u>. All insurance policies must be issued by insurers acceptable to Lessor. At a minimum, all insurers must be duly licensed (or qualified non-admitted insurer) by 8975568v2

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the State of Arizona, Department of Insurance. At a minimum, all insurers must have and maintain an A.M. Best, Inc. rating of B++6.

- 12.5 <u>Lessor's Election to Provide Insurance</u>. Lessor is not required to carry any insurance covering or affecting the Premises or use of Lessor's property related to this Agreement. Lessor may elect to acquire all or any part of the insurance required by this Agreement (with or without any other real property Lessor may own, or control) and Lessee will pay to Lessor the costs of this insurance as reasonably determined by Lessor. Lessee will provide all required insurance not so provided by Lessor. Any insurance or self insurance maintained by Lessor will not contribute to Lessee's insurance.
- 12.6 <u>Insurance Proceeds</u>. All insurance proceeds (whether actually paid before or after termination of this Agreement) will be paid to Lessee and Lessor jointly and will be allocated among Lessor, Lessee and other interested parties as their interests may appear.
- 12.7 <u>No Representation of Coverage Adequacy.</u> By requiring insurance, Lessor does not represent that coverage and limits will be adequate to protect Lessee. Lessor reserves the right to review any and all of the insurance policies and endorsements cited in this Agreement but has no obligation to do so. Failure to demand evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency does not relieve Lessee from, nor be construed or considered a waiver of, its obligation to maintain the required insurance at all times.
- 12.8 <u>Use of Subcontractors</u>. If Lessee subcontracts or otherwise delegates any work or use of the Premises under this Agreement, Lessee will cause the delegatee to execute and provide to Lessor a writing executed by the delegatee containing the same indemnification clauses and insurance requirements set forth herein protecting Lessor and Lessee. Lessee will provide to Lessor certificates of insurance and other evidence that these requirements have been satisfied.
- Indemnity. In addition to all other obligations hereunder, to the fullest extent 12.9 permitted by law, throughout the term of this Agreement and until all obligations and performances under or related to this Agreement are satisfied and all matters described in this paragraph are completely resolved, Lessee (and all other persons using, acting, working or claiming through or for Lessee or this Agreement [if they or their subcontractor, employee or other person or entity hired or directed by them participated in any way in causing the claim in question]) shall jointly and severally pay, indemnify, defend and hold harmless Lessor and all other Additional Insureds for, from and against any and all claims or harm related to the Premises or this Agreement (the "Indemnity"). Without limitation, the Indemnity shall include and apply to any and all allegations, demands, judgments, assessments, taxes, impositions, expenses, proceedings, liabilities, obligations, suits, actions, claims (including without limitation claims of personal injury, bodily injury, sickness, disease, death, property damage, destruction, loss of use, financial harm, or other impairment), damages, losses, expenses, penalties, fines or other matters (together with all attorney fees, court costs, and the cost of appellate proceedings and all other costs and expenses of litigation or resolving the claim) that may arise in any manner out of any use of the Premises or other property related to this Agreement or any actions, acts, errors, mistakes or omissions relating to work or services in the performance of or related to this Agreement, including without limitation any injury or damages or cause of action claimed or caused by any employees, contractors, subcontractors, tenants, subtenants, agents or other

persons upon or using the Premises or surrounding areas related to this Agreement, including without limitation claims, liability, harm or damages caused in part by Lessor or any other Additional Insured or anyone for whose mistakes, errors, omissions or negligence Lessee or Lessor may be liable. As a condition to Lessor's executing this Agreement, Lessee specifically agrees that to the extent any provision of this paragraph is not fully enforceable against Lessee for any reason whatsoever, this paragraph shall be deemed automatically reformed to the minimal extent necessary to cause it to be enforceable to the fullest extent permitted by law. The Indemnity shall also include and apply to any environmental injury, personal injury or other liability relating to Lessor's or Lessee's acquisition, lessorship or use of real property developed, operated, owned, used, controlled or possessed by Lessor or Lessee under this Agreement. Notwithstanding the foregoing, the Indemnity does not apply to:

- 12.9.1 Claims arising only from the sole gross negligence of Lessor.
- 12.9.2 Claims that the law prohibits from being imposed upon the indemnitor.
- 12.10 <u>Consultant Indemnity</u>. Lessee will cause all architects, engineers, contractors, construction managers and other consultants, including itself to the extent Lessee provides any services, (collectively "Consultants") contracted to provide professional services in the design, construction, operation or other work regarding the Premises to provide to Lessor the following protections:
- 12.10.1 To the fullest extent permitted by law, Consultants defend, indemnify and hold harmless Lessee, Lessor and their respective agents, representatives, officers, directors, officials and employees (including without limitation the Additional Insureds) from and against all claims, damages, losses and expenses (including but not limited to attorney fees, court costs, and the cost of appellate proceedings), relating to, arising out of or resulting from the Consultant's acts, errors, mistakes or omissions relating to professional services relating to the Lessee's Improvements. Consultant's said duty to defend, hold harmless and indemnify shall arise in connection with any claim, damage, loss or expense that is attributable to bodily injury, sickness, disease, death; or injury to, impairment, or destruction of property including loss of use resulting therefrom, caused by any acts, errors, mistakes or omissions related to professional services relating to the Lessee's Improvements or the Premises including any person for whose acts, errors, mistakes or omissions the Consultant may be legally liable.
- 12.10.2 This indemnity does not increase or decrease any non-contract liability that may or may not exist independent of this provision and may or may not be covered or coverable by insurance.
- 12.10.3 Professional liability insurance covering acts, errors, mistakes and omissions arising out of the services or work performed by the Consultant or any person employed by him or for whose acts he may be liable, with a limit of not less than \$5,000,000 for each claim. Any "claims made" coverage must extend not less than 3 years after completion of the work. Any coverage is not required to the extent it would merely duplicate insurance coverage then provided by Lessee to Lessor under this Agreement.
- 12.11 <u>Risk of Loss</u>. Lessee assumes the risk of any and all loss, damage or claims to the Premises or related to Lessee's use of the Premises or other property of Lessor, Lessee or third parties throughout the term of this Agreement. Lessee is responsible for any and all damage

to its property and equipment related to this Agreement and will hold harmless and indemnify Lessor and all other Additional Insureds, regardless of the cause of the damages.

- 12.12 <u>Indemnities and Insurance Cumulative</u>. Lessee's obligations to indemnify do not diminish in any way Lessee's obligations to insure; and Lessee's obligations to insure do not diminish in any way Lessee's obligations to indemnify. Lessee's obligations to indemnify and provide insurance are in addition to, and do not limit, any and all other liabilities or obligations of Lessee under or connected with this Agreement. The amount and type of insurance coverage required by this Agreement will in no way be construed as limiting the scope of the indemnities or other requirements of this Agreement.
- 12.13 <u>Insurance to be Provided by Others</u>. Lessee will cause its contractors or other persons occupying, working on or about, or using the Premises in accordance with this Agreement to be covered by their own or Lessee's insurance meeting the requirements of this Agreement. The preceding sentence does not require these persons to provide insurance that merely duplicates insurance Lessee provides.

XII. CONDEMNATION

Condemnation. If any part of the Premises is acquired or condemned by eminent domain 13. for any public or quasi-public use or purpose, and in the event that this taking or condemnation renders the Premises unsuitable for use as a restaurant, then the term of this Agreement will cease and terminate as of the date of taking of possession in this proceeding and Lessee will have no claim for the value of any unexpired term of this Agreement. In the event of an acquisition, Lessor will pay to Lessee separate and apart from any condemnation action an amount equal to the lesser of i) the actual original cost of Lessee's Improvements acquired less depreciation on a straight line basis from the time of construction of Lessee's Improvements so acquired through the remaining original term of this Agreement, or ii) if Lessor is not the condemnor, the net amount actually received by Lessor with respect to any of Lessee's Improvements. In the event of a partial taking or condemnation which is not extensive enough to render the Premises unsuitable for use as a restaurant, Lessor will promptly restore the Premises to a condition comparable to its condition at the time of the condemnation less the portion lost in the taking. This Agreement will continue in full force and effect, and the Base Rent (but not the Percentage Rent) will be reduced in proportion to the gross rentable area of the Premises so taken. In the event of any taking or condemnation, Lessee will not be entitled to any part of the award, as damages or otherwise. Lessor is entitled to receive the full amount of the award or other payment and Lessee waives any right to the award or other payment. Nothing in this paragraph will be construed to permit the abatement in whole or in part of the Percentage Rent.

XIII. DAMAGE TO OR DESTRUCTION OF PREMISES

14. <u>Damage to or Destruction of Premises</u>. If the Premises are partially damaged by fire, explosion, the elements, the public enemy, or other casualty, but not rendered untenable, and provided that the damage is not caused by the act or omission of Lessee or its officers, employees, representatives, agents or customers, the damage will be repaired with due diligence by Lessor at its own cost and expense, and there will be no reduction of Rent. If this damage is so extensive as to render the Premises untenable, but capable of being repaired in 90 days, the same will be repaired with due diligence by Lessor at its own cost and expense, and the Rent will be proportionately paid up to the time of the damage and thereafter cease until the Premises are

restored. In the event the Premises are completely destroyed by fire, explosion, the elements, the public enemy or other casualty; or so damaged that they will remain untenable for more than 90 days, Lessor will be under no obligation to repair and reconstruct the Premises, and Rent will be proportionately paid up to the time of the damage or destruction, and will thereafter cease until such time as the Premises may be fully restored. If within 12 months after the time of the damage or destruction the Premises is not repaired or reconstructed, Lessee may give Lessor written notice of its intention to cancel this Agreement in its entirety as of the date of the damage or destruction. Despite all of the foregoing provisions, all repairs required of Lessor will be limited to the building structure, roof and outer walls. Repairs to finished improvements including, but not limited to, decorations, furnishings, floor and wall coverings, fixtures and equipment, will be accomplished by Lessee at its cost and expense within 90 days after the completion of Lessor's restoration of the Premises. Nothing in this paragraph will be construed to permit the abatement in whole or in part of the Percentage Rent.

XIV. LESSEE'S RECORDS

- 15. <u>Lessee's Financial Records</u>. During the entire term of this Agreement, Lessee will keep records and provide information to Lessor as follows:
- 15.1 <u>Scope of Information</u>. Unless otherwise specified, all of Lessee's recordkeeping and disclosure obligations under this article include and are limited to the following cumulative topics as reasonably determined by Lessor (collectively the "Covered Information"):
 - 15.1.1 All information about this Agreement.
- 15.1.2 All information about Lessor's and Lessee's rights, obligations and performances under this Agreement.
- 15.2 <u>Reports</u>. Lessee will deliver to Lessor written reports (and, if requested by Lessor, a presentation to Lessor's governing council or designee) covering the Covered Information as Lessor may request from time to time.
 - 15.3 Records Inspection. At Lessee's expense, Lessee will:
- 15.3.1 Permit and assist Lessor and its representatives at all reasonable times to inspect, audit, and copy Lessee's records of Covered Information.
- 15.3.2 Make the records of Covered Information (and reasonable accommodations for Lessor's audit and inspection) available to Lessor at Lessee's offices in the City of Scottsdale, Arizona or at another location requested by Lessor within the corporate limits of the City of Scottsdale.
- 15.3.3 Cause Lessee's employees and agents and accountants to give their full cooperation and assistance in connection with Lessor access to the Covered Information.
- 15.4 <u>Standards for Records</u>. Lessee will maintain a standard, modern system of recordkeeping for the Covered Information and will keep and maintain proper and accurate books and other repositories of information relating to the Covered Information in accordance with generally accepted accounting principles applied on a consistent basis. If Lessor does not receive Covered Information, Lessor will have the right to estimate the information that is not provided, 8975568v2

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which estimate will be binding upon Lessee.

- 15.5 <u>Record Retention</u>. Lessee will preserve records of the Covered Information in a secure place within the City of Scottsdale, Arizona for a period ending 7 years after the time period reported by the records.
- 15.6 Record Media Included. Lessor's and Lessee's rights and obligations regarding the Covered Information encompass media, materials, and data repositories of every kind and character that may contain Covered Information. These repositories include, without limitation, records, books, papers, documents, subscriptions, recordings, agreements, purchase orders, computer data, invoices, cash register tapes, contracts, logs, accounts, commitments, arrangements, notes, diaries, ledgers, correspondence, reports, drawings, receipts, vouchers and memoranda, and any and all other sources, records and repositories of Covered Information.
- 15.7 <u>Access after Termination</u>. Lessee's access to Covered Information will continue for 6 years after termination of this Agreement for any reason.
- 15.8 Costs of Audit. If an audit, inspection or examination discloses underpayments (or other matters adjusted in favor of Lessor) of any nature that exceed 3% of any payments or single payment, Lessee will pay to Lessor Lessor's actual cost (based on the amount paid by Lessor, or based on reasonable charges charged by private auditors and other service providers for comparable work if the audit is performed by Lessor's employees) of the audit, inspection or examination, together with late fees, interest, and other amounts payable in connection with these adjustments or payments. Any adjustments or payments due as a result of any audit, inspection or examination will be made within a reasonable amount of time (not to exceed 30 days) after Lessor gives to Lessee notice of Lessor's findings.

XV. COMPLIANCE WITH LAW

- 16. <u>Compliance with Law</u>. Lessee will perform its obligations under this Agreement in accordance with all federal, state, county and local laws, ordinances, regulations or other rules or policies as are now in effect or as may subsequently be adopted or amended. Without limiting in any way the generality of the foregoing, Lessee will comply with all and each of the following:
- 16.1 <u>Applicability of Municipal Law</u>. Without limitation, Lessee will comply with municipal laws as follows:
- 16.1.1 Lessee acknowledges that this Agreement does not constitute, and Lessor has not promised or offered, any type of waiver of, or agreement to waive (or show any type of forbearance, priority or favoritism to Lessee with regard to) any law, ordinance, power, regulation, tax, assessment or other legal requirement now or hereafter imposed by the City of Scottsdale or any other governmental body upon or affecting Lessee or the Premises, or Lessee's use of the Premises.
- 16.1.2 All of Lessee's obligations are in addition to, and cumulative upon (and not to any extent in substitution or satisfaction of), all existing or future laws and regulations applicable to Lessee.
- 16.1.3 In the case of an ordinance or other law of the City of Scottsdale authorizing a credit, reduction in tax or amount charged or assessed, or any other benefit as a 8975568v2 Page 31 of 39

result of performances rendered under this Agreement, Lessee expressly waives, relinquishes and repudiates all benefits with respect to performances rendered under this Agreement.

- 16.1.4 This Agreement is not intended to diminish any performances that would be required of Lessee by law if this Agreement had been made between Lessee and a private citizen.
- 16.1.5 Lessor has not relinquished or limited any right of condemnation or eminent domain over the Premises or any other property related to this Agreement.
- 16.1.6 This Agreement does not impair City of Scottsdale's power to enact, apply or enforce any laws or regulations, or exercise any governmental powers affecting in any way Lessee or the Premises.
- 16.1.7 Lessor's rights and remedies for Lessee's failure to comply with all applicable laws supplement and are in addition to and do not replace otherwise existing powers of the City of Scottsdale or any other governmental body.
- Taxes, Liens and Assessments. In addition to all other Rent paid, Lessee will pay, when due and as the same become due and payable all taxes and general and special fees, charges and assessments of every description which during the term of this Agreement may be levied upon or assessed against the Premises, the operations conducted therein, any Rent paid or other performances under this Agreement by either party, and all possessory interest in the Premises and improvements and other property thereon, whether belonging to the Lessor or Lessee; and Lessee agrees to indemnify, defend and hold harmless Lessor and the Premises and any property and all interest and improvements from any and all taxes and assessments, including any interest, penalties and other expenses that may be imposed, and from any lien or sale or other proceedings to enforce payment. Lessee has the right to contest, but not the right to refuse to timely pay, any taxes and assessments. Lessor has the right from time to time to require that all of these payments be made by Lessee through Lessor. Lessee will pay all sales, transaction privilege, and similar taxes.
- 16.3 Government Property Lease Excise Tax. Lessee is responsible for any and all property taxes. Pursuant to A.R.S. § 42-6208(5), the Lessee is exempt from the payment of the government property lease excise taxes.
- 16.4 <u>Food Laws</u>. Lessee will at all times comply with Federal Pure Food and Drug Laws and all other applicable health rules, regulations, standards, laws and ordinances of the United States of America, State of Arizona, County of Maricopa, City of Scottsdale, and any other authority lawfully exercising authority over food and beverage services. Lessee will at its own expense obtain and maintain all necessary licenses and permits permitting the sale of food and beverages on the Premises.
- 16.5 <u>Building Permits</u>. Lessee will obtain at its own expense all building or other permits in connection with all construction performed by Lessee and will comply with all zoning, building safety, fire and similar laws and procedures of every description.
- 16.6 <u>Airport Regulations</u>. Lessor reserves the right to adopt, amend and enforce against Lessee rules and regulations governing the operation of the Airport, including the concession areas generally and the Premises, Lessee's activities on the Premises, and the public Page 32 of 39

areas and facilities used by Lessee in connection with this Agreement.

- 16.7 <u>Aviation Regulations</u>. Lessee will comply with any and all rules, regulations, laws, ordinances, statues or orders of the FAA and any other governmental authority, whether Federal, State, County, or Lessor, lawfully exercising authority over the Airport.
- 16.8 <u>Liability and Indemnity</u>. Lessee is liable to Lessor, and will pay, indemnify, defend and hold harmless Lessor against, any and all claims, demands, damages, fines or penalties of any nature whatsoever which may be imposed upon Lessor, including attorneys fees, arising from any violation of law caused directly or indirectly by act, omission, negligence, abuse or carelessness on the part of Lessee, its employees, agents, customers, visitors, suppliers, or invitees. Without limitation, the preceding sentence requires the payment by Lessee of any fines or penalties for any breach of security arising from the unauthorized entry of any of the aforementioned persons or their vehicles onto the passenger loading areas, taxiways, runways, aircraft movement areas and any other restricted portion of the Airport.
- 16.9 <u>Grant Agreement Assurances</u>. Lessee will observe and comply with the following covenants and conditions:
- 16.9.1 No person will be excluded from participation, denied the benefits of, or be otherwise subjected to discrimination in the use of the Premises on the grounds of race, color, handicap, or national origin. No person will be excluded on the grounds of race, color, handicap, or national origin from participation in, denied the benefits of, or otherwise be subject to discrimination in the construction of any improvements on, over, or under the Premises and the furnishing of services on the Premises.
- 16.9.2 Lessee will use the Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.
- 16.9.3 Lessee will furnish its accommodations and services on a fair, equal and not unjustly discriminatory basis to all users, and it will charge fair, reasonable and not unjustly discriminatory prices for each unit or service; provided, that Lessee may be allowed to make reasonable and nondiscriminatory discounts, rebates or other similar type of price reductions to volume purchases.
- 16.9.4 Lessee agrees that it will insert this subparagraph and all of the other provisions of this paragraph titled "Grant Agreement Assurances" in any agreement, lease, contract, etc. by which Lessee grants a right or privilege to any persons, firm or corporation to render accommodations and services to the public on the Premises together with a provision that the "Grant Agreement Assurances" will constitute a material breach of this Agreement, and in the event of any non-compliance Lessor will have the right to terminate the agreement and the estate created without further liability. Either or both Lessor or the United States has the right to enforce the "Grant Agreement Assurances."
- 16.10 Federal Agreements. This Agreement is subordinate to the provisions and requirements of any existing or future agreement between the Lessor and the United States,

relative to the development, operation or maintenance of the Airport.

- 16.11 <u>Construction Regulations</u>. Lessee shall comply with the notification and review requirements covered on Part 77 of the Federal Aviation Regulations in the event any future structure or building is planned for the Premises, or in the event of any planned modification or alteration of any present or future building or structure situated on the Premises.
- 16.12 <u>War or National Emergency</u>. This Agreement is subject to whatever right the United States Government now has or in the future may have or acquire, affecting the control, operation, regulation and taking over of the Airport or the exclusive or non-exclusive use of the Airport by the United States during the time of war or national emergency.
- 16.13 Affirmative Action. Lessee assures that it will undertake an affirmative action program if and as required by 14 CFR, Part 152, subpart E, to insure that no person will on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR, Part 152, Subpart E. Lessee assures that no person will be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. Lessee assures that it will require that its covered suborganizations provide assurances to Lessor that they similarly will undertake affirmative action programs and that they will require assurances from their suborganizations, as and if required by 14 CFR, Part 152, Subpart E, to the same effect.

XVI. ASSIGNABILITY

- 17. <u>Assignability</u>. This Agreement is not assignable by Lessee except in strict compliance with the following:
- 17.1 <u>Assignments Prohibited</u>. References in this Agreement to assignments or subleases by Lessee will be considered to apply to all of the following transactions, circumstances and conditions:
- 17.1.1 Any voluntary or involuntary assignment, conveyance, or transfer of the Premises or any interest or any rights under this Agreement, in whole or in part.
- 17.1.2 Any voluntary or involuntary pledge, lien, mortgage, security interest, judgment, deed of trust, claim or demand, whether arising from any contract, any agreement, any work of construction, repair, restoration, maintenance or removal, or otherwise affecting the Premises (collectively "Liens").
- 17.1.3 The use, occupation, management, control or operation of the Premises or any part of the Premises by others.
- 17.1.4 Any transaction (or series of related or unrelated transactions) transferring a substantial part of the corporate stock (or other evidence of ownership, as applicable) or any other direct or indirect transfer of any substantial part of the ownership, management or control of Lessee or the Premises.
 - 17.1.5 Any assignment for the benefit of creditors, voluntary or involuntary.
 - 17.1.6 Any bankruptcy or reorganization.

- 17.1.7 The occurrence of any of the foregoing by operation of law.
- 17.2 <u>Assignment Remedies</u>. Any prohibited assignment will be void and vest no rights in the assignee. Nevertheless, Lessor may, in its sole discretion and in addition to all other remedies available to Lessor under this Agreement or otherwise and in any combination, collect Rent from the assignee, sublessee or occupant and apply the net amount collected to the Rent required to be paid and void the assignment, all without prejudicing any other right or remedy of Lessor under this Agreement. No cure or grace periods will apply to assignments prohibited by this Agreement or to enforcement of this Agreement against an assignee who did not receive Lessor's consent. Lessor may elect to increase Rent as a condition to consenting to an assignment.
- 17.3 No Waiver. No consent or collection or other action or inaction by Lessor will be considered a waiver of the prohibition on assignments or any other provision of this Agreement, or the acceptance of the assignee, sublessee or occupant as Lessee, or a release of Lessee from the further performance by Lessee of the provisions of this Agreement. The consent by Lessor to an assignment or subletting will not relieve Lessee from obtaining the consent in writing of Lessor to any further assignment or sublease. Upon assigning, transferring or subletting the Premises, Lessee will not be released of any liability but will remain fully and personally obligated under this Agreement.
- 17.4 <u>Enforceability after Assignment</u>. This Agreement is enforceable personally and in total against Lessee and each successor, partial or total, and regardless of the method of succession, to Lessee's interest. Each successor having actual or constructive notice of this Agreement is considered to have agreed to the preceding sentence.
- 17.5 <u>Grounds for Refusal</u>. No assignments of this Agreement are contemplated or bargained for. Lessor has the absolute right for any reason or for no reason in its sole discretion to give or withhold consent to any assignment or to impose any conditions upon any assignment. Lessee will pay to Lessor the sum of \$500 for legal and administrative expenses related to any request for consent.
- 17.6 Form of Assignment. Any assignment will be by agreement in form and content acceptable to Lessor. Without limitation, any assignment will specify and require that each assignee acquiring any interest under this Agreement will assume and be bound by, and be obligated to perform the terms and conditions of this Agreement, and that in the event Lessor terminates this Agreement because of default by Lessee, Lessor at Lessor's sole option may succeed to the position of Lessee as to any assignee of Lessee without liability for any previous breaches or performances by persons other than Lessor.
- 17.7 <u>Lien Payment</u>. Lessee will pay all Liens as the same become due, and in any event before any judicial or non-judicial action or proceeding is commenced to enforce a Lien. Lessee will pay, indemnify, defend and hold Lessor and the Premises free and harmless for, from and against any and all Liens, together with all liability, costs and expenses in connection therewith, including attorney's fees. Lessor will have the right at any time to post and maintain on the Premises any notices, pay any amounts, file or record any notices, or take any other actions as Lessor may consider necessary to protect Lessor and its property interests against all Liens.

XVII. <u>MISCELLANEOUS</u>

- 18. <u>Miscellaneous</u>. The following additional provisions will apply:
- 18.1 <u>Amendments</u>. This Agreement may not be amended except by a formal writing executed by the parties.
- 18.2 <u>Limited Severability</u>. In the event any term, condition, covenant, stipulation, agreement or provision is held to be invalid or unenforceable for any reason, the invalidity of the term, condition, covenant, stipulation, agreement or provision will in no way affect any other term, condition, covenant, stipulation, agreement or provision. Further, this Agreement will be considered automatically reformed to secure to Lessor the legal, equitable, practical and other benefits of the provisions of this Agreement as written to the very maximum extent permitted by law.
- 18.3 <u>Conflicts of Interest</u>. No member, official or employee of Lessor will have any direct or indirect interest in this Agreement, nor participate in any decision relating to the Agreement, that is prohibited by law.
- 18.4 <u>No Partnership</u>. This Agreement and the transactions and performances contemplated by this Agreement will not create any sort of partnership, joint venture or similar relationship between the parties.
- 18.5 <u>Nonliability of Lessor Officials and Employees</u>. No member, official, representative or employee of Lessor will be personally liable to any party, or to any successor in interest to any party, in the event of any default or breach by Lessor or for any performance or amount that may become due to any party or successor, or with respect to any obligation of Lessor or otherwise under the terms of this Agreement or related to this Agreement.
- 18.6 <u>Notices</u>. Notices will be given in writing personally served upon the other party or mailed by registered or certified mail, return receipt requested, postage prepaid addressed to:

If to Lessor:

Scottsdale Aviation Director

15000 N. Airport Dr. Scottsdale, AZ 85260

Copy to:

City of Scottsdale

3939 N. Drinkwater Blvd. Scottsdale, AZ 85251 Attn: City Attorney

If to Lessee:

Ciao Baby Catering, LLC dba Zulu Caffe

30610 N. 52nd Place Cave Creek, AZ 85331 Attn: Vicki Beaudoin

or to any other street address within Maricopa County, Arizona as may be designated by the respective parties in writing from time to time. Notices to Lessee may also be hand delivered to

the Premises. In the event of any service by mail, service will be considered to be complete 48 hours after deposited in the United States mail.

- 18.7 <u>Time of Essence</u>. Time is of the essence of each and every provision of this Agreement. Any payments due on Saturday, Sunday or an Arizona legal holiday will be due on the next succeeding day that is not a Saturday, Sunday or an Arizona legal holiday.
- 18.8 <u>Funding</u>. This subparagraph will control despite any provision of this Agreement or any exhibit or other agreement or document. If funds necessary to fulfill Lessor's obligations under this Agreement are not appropriated by the Scottsdale City Council, Lessor may terminate this Agreement by giving 30 days notice to Lessee. Termination in accordance with this provision will not constitute a breach of this Agreement by Lessor. No person will be entitled to any compensation, damages or other remedy from Lessor if this Agreement is terminated in accordance with the terms of this subsection.
- 18.9 <u>Paragraph Headings</u>. The paragraph headings are for convenience in reference and not intended to define or limit the scope of any provision of this Agreement.
- 18.10 Attorneys' Fees. In the event any action or suit or proceeding is brought by Lessor to collect the Rent due or to become due or to take possession of the Premises or to enforce compliance with this Agreement or for failure to observe any of the covenants of this Agreement or to vindicate or exercise any of Lessor's rights or remedies, Lessee agrees to pay Lessor all costs of any action or suit and all expenses of any action or suit together with any sum as the Court may adjudge reasonable as attorneys' fees to be allowed in any suit, action or proceeding.
- 18.11 <u>No Third Party Beneficiaries</u>. Except as otherwise expressly provided, no person or entity will be a third party beneficiary to this Agreement or will have any right or cause of action under this Agreement.
- 18.12 <u>Exhibits</u>. All exhibits attached to this Agreement are incorporated into this Agreement by this reference.
- 18.13 <u>Integration</u>. This Agreement constitutes the entire agreement between the parties with respect to the subject matter of this Agreement and supersedes any previous agreement, understanding, negotiation or representation regarding the Premises.
- 18.14 <u>Further Assurances</u>. Lessee agrees to do any further acts and things and to execute and deliver any additional agreements and instruments as Lessor may reasonably require to consummate, evidence, confirm or carry out this Agreement.
- 18.15 <u>Construction</u>. Whenever the context of this Agreement requires, the singular includes the plural, and the masculine includes the feminine. This Agreement will be construed according to its plain meaning and neither for nor against any party. Lessee acknowledges that the Rent payable was negotiated in light of the plain meaning of this Agreement and this Agreement will therefore be interpreted according to its plain meaning and without regard to rules of interpretation, if any, which might otherwise favor Lessee.
- 18.16 <u>Survival of Liability</u>. All obligations of Lessee and all warranties and indemnities of Lessee will survive termination of this Agreement for any reason.

- 18.17 <u>Choice of Law</u>. This Agreement is governed by the internal laws of the State of Arizona without regard to choice of law rules. Lessor has not waived its claims procedures as respects this Agreement. Exclusive proper venue for any action regarding this Agreement is in Maricopa County Superior Court. City and Lessee consent to personal jurisdiction in that court.
- 18.18 <u>Approvals and Inspections</u>. All approvals, reviews and inspections by Lessor under this Agreement or otherwise are for Lessor's sole benefit and not for Lessee's benefit.
- 18.19 <u>Statutory Cancellation Right</u>. In addition to its other rights hereunder, Lessor has the cancellation rights specified in A.R.S. § 38-511.
- 18.20 <u>Recording</u>. Within 10 days after the date of this Agreement, Lessor will cause this Agreement or an abstract of this Agreement to be recorded in the office of the Maricopa County Recorder.

EXECUTED as of the date first given above.

	LESSEE:	CIAO BABY CATERING dba Zulu Caffe, an Arizona limited liability company
		By:
	LESSOR:	CITY OF SCOTTSDALE, an Arizona municipal corporation
	e	By: W. J. "Jim" Lane, Mayor
ATTEST:		
Carolyn Jagger, City Clerk		
APPROVED AS TO FORM:		
Bruce Washburn, City Attorney By: Clifford J. Frey Senior Assistant City A		

Gary P. Mascaro, Aviation Director
Pauline Hecker, Risk Management Director
STATE OF ARIZONA)) ss. County of Maricopa)
The foregoing instrument was acknowledged before me this day of 2011,, of of an Arizona
Notary Public
My Commission Expires:
STATE OF ARIZONA)) ss. County of Maricopa
The foregoing instrument was acknowledged before me this day of
Notary Public My Commission Expires:

Exhibit "A" Airport Terminal Building Location

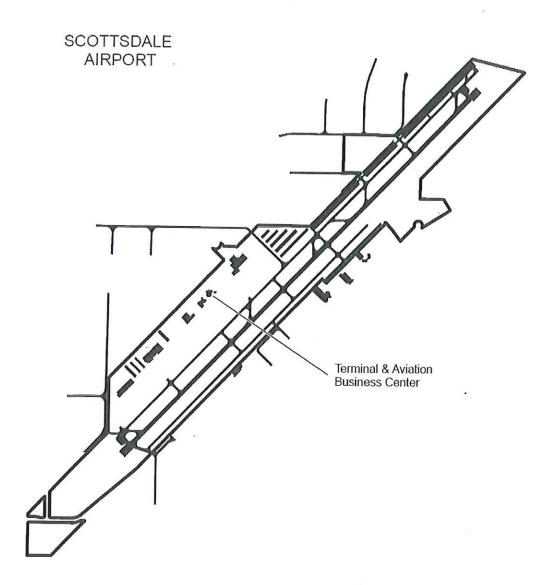


Exhibit "B" Lease Premises

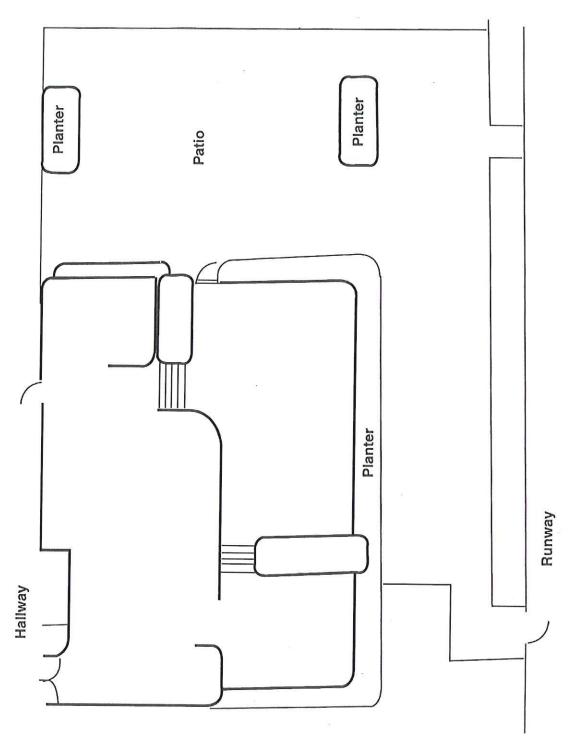


Exhibit "C" Lessor Property

- Continental refrigerated prep table, 60x37x30
- X-Press toaster
- 3. Panabella pannini grill, portable
- 4. American Range grill
- 5. American Range griddle
- 6. 4-burner stove
- 7. 6-burner stove
- 8. Warming/steam table, 4 water pans, 58x33x29
- 9. Refrigerated prep table, 48x35x34
- Pitco deep fat fryer
- 11. Blodgett Zephaire oven
- Bootz walk-in refrigerator
- 13. Raetone Victory two-door refrigerator, 59x80x32
- 14. Everest two-door refrigerator, 49x78x31
- 15. Small cooler, 27x36x28
- 16. Delfield two-door refrigerator, 51x80x30
- 17. Manitowoc ice machine
- 18. Beverage Air deep-well bottle cooler, 65x32x27
- 19. True deep-well bottle cooler, 37x31x26
- 20. 19 4-seat tables
- 21. 12 2-seat tables
- 22. 99 wooden chairs
- 23. 3 bar stools
- 24. 7 metal patio tables
- 25. 28 metal patio chairs and cushions
- 26. Miscellaneous pots, pans, crockery, glasses, utensils, prep tables, racks, built-in fixtures (sinks, lighting, speakers)
- 27. Built-in leasehold improvements, air conditioning systems, and other leasehold improvements

Measurements are approximate exterior dimensions, length x height x depth Condition of inventory is "as is"



COMMISSION INFORMATION REPORT

Discussion and Input Regarding the Process of Basing An Aircraft in the Airpark Agenda Item No.: 11

Meeting Date: 10/05/11

Staff Contact: Ken Casey,

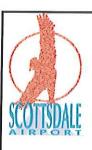
Commissioner

Phone: (480) 312-2321

INFORMATION

At the request of Commissioner Casey, the Airport Advisory Commission will discuss the process of basing an aircraft in the Airpark. Aviation staff will provide any updates to the permitting process since the last discussion at the February Airport Advisory Commission meeting.

Attachment (s): 1. February 9, 2011 Commission Information Report and associated presentation



COMMISSION INFORMATION REPORT

Discussion and Input Regarding The Airpark Access Permitting Process

Agenda Item No.:

Meeting Date: 02/09/11

Staff Contact: Chris Read,

Operations Manager

Phone: (480) 312-2674

INFORMATION
At the request of Vice Chairman Washington, Aviation staff will provide a presentation regarding the airpark access permitting process.

- (f) Mobile Aircraft Maintenance and Repair Services Operator; and
- (g) Off-Airport Catering Services Operator.

Section 204. Prerequisites to registration and licensing of airpark aircraft.

Each person owning, operating, leasing or otherwise controlling aircraft based in the airpark shall:

- (a) Prior to conducting airport/airpark access, obtain an Airpark Access Permit approved by the Aviation Director for each aircraft and submit evidence satisfactory to the City of registration and/or leasehold interest.
- (b) Convey in writing any changes to information contained within the Airpark Access Permit to the Aviation Director within fifteen (15) calendar days of the change.
- (c) If conducting storage of aircraft primarily used in conjunction with the commercial aeronautical uses in the airpark, provide evidence reasonably satisfactory to the City that:
 - The operator has been granted an approved Aeronautical Business Permit to conduct such activity in the airpark; and
 - The permitted aeronautical business occupies the amount of enclosed nonhangar gross floor area at the aircraft storage location required by the Airpark Minimum Operating Standards.

Section 205. Limitations on access permit.

- (a) An Airpark Access Permit shall remain in effect as long as all of the terms, conditions, and covenants of the permit are being kept and observed, and the airpark aviation operator is in compliance with all applicable regulations.
- (b) An Airpark Access Permit shall not be assigned or transferred.
- (c) An Airpark Access Permit shall not authorize the airpark aviation operator to engage in any commercial aeronautical services or activities.

Section 206. Taxilane wingspan restrictions and indemnification.

The Aviation Director recommends that aircraft operators only operate aircraft in areas of the airpark taxilanes consistent with the wingspan restrictions as defined in the Airpark Taxilane Standards. The City assumes no liability for damage or loss, including aircraft operation in areas where aircraft wingspan exceeds the recommended maximum wingspan. Any such operation or resulting damage is solely at the risk of the aircraft operator, and said aircraft operator, as a condition of the issuance of an Airpark Access Permit, shall defend, indemnify and hold harmless the City from any damages or losses resulting from said operation.

Section 207. Self-services.

(a) Persons are permitted to fuel, wash, repair, paint, or otherwise service their own based aircraft, provided there is no attempt to perform such services for others and further provided that such right is conditioned upon compliance with these regulations and all applicable laws.

Section 310. Based aircraft storage requirements.

- (a) An Airpark-based aircraft shall only park at its based location, its "slot".
- (b) The maximum number of aircraft that may be lawfully based at an airpark hangar/shade/tiedown area is calculated by the number of aircraft that can physically and operationally fit into the hangar/shade/tiedown area at any one time if all based aircraft were present. The hangar/shade operator or aircraft owner/operator shall:
 - 1. Submit a dimensional plan-view drawing of the hangar/shade/tiedown and associated aircraft for approval or denial by the Aviation Director.
 - 2. If, in the determination of the Aviation Director, the dimensional plan-view drawing is insufficient to demonstrate the ability to base all aircraft in the hangar/shade/tiedown location, at the Aviation Director's discretion all or some of the based and proposed based aircraft will be required to be simultaneously placed in the hangar/shade/tiedown location for review by the Aviation Director.
- (c) A slot is considered occupied by a based aircraft for a minimum of six (6) months or, if in excess of six (6) months, as long as the aircraft is based at the location.
- (d) Replacement aircraft may be substituted for a slot aircraft only if the Aviation Director approves a replacement aircraft:
 - 1. For an aircraft sold by the owner, and the replacement aircraft is based in the same slot at the airpark location. The replacement aircraft begins a new six (6) month period for the slot.
 - 2. For a specified period of time, to replace the slot aircraft while it is undergoing maintenance, repair or specialized aircraft repair services as they are described in the Airport Minimum Operating Standards. The replacement aircraft does not begin a new six (6) month period for the slot.
- (e) Except as provided in subsection (d), replacement aircraft shall not be substituted for aircraft no longer based by an airpark aviation operator in the airpark location.



AVIATION DEPARTMENT

AIRPARK ACCESS PERMIT APPLICATION CHECKLIST

COM	MPANY/APPLICANT NAME	_PROPERTY NUMBER-AP		
ALL APPLICANTS SHALL SCHEDULE A PRE-APPLICATION MEETING WITH THE AVIATION DEPARTMENT REPRESENTATIVE (ADR) BY CALLING 480-312-2321. DURING THE MEETING, THE ADR WILL MARK ALL OF THE REQUIRED ITEMS FOR THE PERMIT THAT IS BEING REQUESTED. AFTER THE INITIAL MEETING TAKES PLACE, IT IS THE RESPONSIBILITY OF THE APPLICANT TO SUBMIT ALL OF THE REQUIRED ITEMS. APPLICATIONS THAT ARE INCOMPLETE OR MISSING ITEMS CANNOT BE PROCESSED.				
34.17	PART 1 – GENERAL RE	QUIREMENTS		
REQ'D				
	 Scottsdale Airpark Access Permit Form- The form must be completed representative. 	eted in its entirety and signed/dated by the applicant or authorized		
	2. Articles of Organization-for the applicant applying for the permit. A corporation, a copy of the articles of incorporation as filed with the Company, a copy of the articles of organization filed with the Corpora of the certificate of limited partnership filed with the Secretary of Stapartnership agreement	orporate Commission; 2). If the applicant is a limited liability ation Commission; 3). If the applicant is a limited partnership, a copy		
	3. Documentation Regarding Authorized Representative-If the ap Organization, then the applicant must secure a letter from one of the letter must indicate that the authorized representative is authorized t letterhead. This letter must also contain current contact information	company's officers who is listed on the Articles of Organization. This o act on behalf of the company and it must be written on company		
	4. Proof of Property Ownership-Provide a deed or other document the	at demonstrates that the property is owned by the applicant.		
	Property Owner's Aeronautical Business Permit for Hangar/Sh Aeronautical Business Permit for hangar/shade leasing services.	ade Leasing Services-Provide a copy of the property owner's		
	5a. Copy of Lease Between Property Owner and Applicant -Provide lease agreement must show the dollar amount being charged to appl	a copy of the lease between property owner and applicant. That icant for the space and the term of the agreement.		
gw XI n	PART 2 – AIRPARK RULES A	ND REGULATIONS		
	6. Slot Requirements- Each hangar facility has a limited number of "slonot calculated based on how many aircraft can fit into a hangar and a provide a sketch that depicts the layout of the property and all building feet of total building space is on the site and how many square feet of professionally prepared. Applicants can use an overhead picture of the information regarding the slot program can be found in Airpark Rules	ts" or number of aircraft that can be based at that location. Slots <u>are</u> sircraft cannot be rotated with other aircraft. Applicants must ngs on the site. Furthermore, the sketch shall list how many square of hangar space is on site. The sketch does not have to be ne site by using any internet mapping application. Detailed		
	Total square footage at the site. Then subtract,			
	Total square footage of enclosed, non-hangar space.			
	Subtotal, then divide by 1,000 and then round down to	o the nearest whole number.		
	# of authorized slots for property.			
	# of aircraft already based in the hangar. (ADR to ver	fy)		
	applicant's property design was approved by the City's Developme			
6	6a. Slot Requirements, Cont The ADR will check this box only after the will physically fit into the hangar with all of other aircraft that have beer The sketch must depict all of the current aircraft and the applicant's new aircraft must be to scale. If there is any question as to whether all of the Aviation Coordinator will ask the applicant to stage all of the aircraft in the physically fit in the hangar at	previously approved. This can be done by site sketch or site visit. It aircraft in the hangar. The dimensions of the hangar and the It aircraft can fit in the hangar after reviewing the site sketch, the It hangar at the same time and then inspect the site.		

	s for property		
	y based in hangar (Aviation Coordinator to provide)		
7. Proof of Aircraft Ownership—FAA registration form or aircraft title, also provide a copy of the contract between the aircraft owner and management company the aircraft is managed by the applicant.			
8. Aeronautical Business Permit Determination-The applicant must review the Airpark Minimum Operating Standards to determine whether or not they will be performing any aeronautical activities that require an Aeronautical Business Permit. If the applicant determines that they will not be conducting aeronautical activity as outlined in the Airpark Minimum Operating Standards, the applicant shall state that in a written memo on company letterhead. Furthermore, the applicant must determine whether or not the aircraft involved in the permitting process is being "managed" as outlined in the Airpark Minimum Operating Standards, section 6-4 by another entity or by the applicant themselves. If the aircraft is being staffed, piloted, controlled, and/or scheduled or if the aircraft's records are being kept by anyone other than direct employees of the company that owns the aircraft, then that person(s) must obtain an Aeronautical Business Permit for aircraft management services. If all of the items listed above are being carried out by direct employees of the company that owns the aircraft, then they shall state that in a written memo on company letterhead.			
9. Aeronautical Business Permit- If the applicant does intend to conduct aeronautical business in the Airpark, then skip to #10. The ADR shall verify that the applicant has applied for and received an approved Airpark Aeronautical Business Permit for the aircraft/company that is applying for the Airpark Access Permit.			
10. Self-Fueling Permit-If the applicant is requesting to be based at a facility that has a fuel farm and intends to use it, they must apply for and receive a Self-Fueling Permit.			
Company of the control of the contro	PART 3 - ADVISORY ITEMS		
Fees-Applicants shall be advised of approved. The following list includes	the following key item(s) that will be necessary to comply with once the Airpark Access Permit is but is not be limited to.		
for airpark access is; \$17.50 for 2. Access Device Deposit-If the the gate access device. Cash o	operators will receive a monthly billing invoice from the Airport Administration office. The monthly fee single engine aircraft; \$22.50 for twin engine aircraft; \$55.00 for turbine/jet aircraft. based aircraft location is not a direct access site, then a refundable deposit of \$50.00 will be needed for r checks made out to the City of Scottsdale are the only acceptable methods of payment. The deposit Staff until the permit has been approved.		
	PART 4 – SIGNATURES		
The information provided for this application is documents required by this form. All information	certified to be true and correct. The Aviation Coordinator will review the application and all attached in shall be submitted and complete prior to approved by the City.		
The information provided for this application is documents required by this form. All information Signature of Applicant	n shall be submitted and complete prior to approved by the City.		
documents required by this form. All information	certified to be true and correct. The Aviation Coordinator will review the application and all attached in shall be submitted and complete prior to approved by the City. Date		
documents required by this form. All information Signature of Applicant	n shall be submitted and complete prior to approved by the City.		
Signature of Applicant Approved by:	Date		
Signature of Applicant Approved by:	Date Date		
Signature of Applicant Approved by: Aviation Director (or designee)	Date INTERNAL USE ONLY		
Signature of Applicant Approved by: Aviation Director (or designee)	Date Date INTERNAL USE ONLY Initiate or Change "R" Account		
Signature of Applicant Approved by: Aviation Director (or designee) Database Entry INOVAH Entry	Date Date INTERNAL USE ONLY Initiate or Change "R" Account Update Airpark Fuel List Issue Access Device		



COMMISSION INFORMATION REPORT

Discussion and Input Regarding a potential Economic Impact Study for the Airport/Airpark Agenda Item No.: 12

Meeting Date: 10/05/11

Staff Contact: Gunnar Buzzard,

Chair

Phone: (480) 312-2321

INFORMATION		
This item has been placed on the agenda per the recommendation of Chair Gunnar Buzzard for discussion and input regarding a potential economic impact study for the Airport and Airpark area.		



COMMISSION ACTION REPORT

Discussion and Possible Action Regarding Airport Advisory Commission By-Laws

Agenda Item No.: 13

Meeting Date: 10/05/11

Staff Contact: Gary P. Mascaro,

Aviation Director

Phone: (480) 312-7735

ACTION

Discussion and Possible Action regarding Airport Advisory Commission By-Laws.

Pursuant to the By-Laws of the Scottsdale Airport Advisory Commission, Section IV, Rules and Amendments, Paragraph 401. Amendment Procedures "Amendments to these by-laws may be made by the Commission upon the affirmative vote of four (4) members, provided any such amendment is proposed at a preceding meeting, or is submitted in writing at a prior regular meeting of the Commission and is noted in the minutes of such meeting. Amendments adopted as above shall become effective at the next regular meeting of the Commission."

Attachment(s): 1. Current By-Laws of the Airport Advisory Commission with proposed changes

2. Chapter Five Section 5-109

Action Taken:

BY-LAWS OF THE SCOTTSDALE AIRPORT ADVISORY COMMISSION

I. ORGANIZATION

101. Elections

The Commission shall, in regular session following the first day of January of everymeeting of the calendar year, elect from its members a ChairmanChair and Vice-ChairmanChair. The term of office shall be one year and no officer shall succeed him or herself more than once.

102. ChairmanChair

The ChairmanChair shall preside at all meetings and hearings of the Commission, decide all points of order or procedure and perform all duties required by Section 5-109 of the Scottsdale Revised Code. The ChairmanChair may initiate motions, engage in protracted discussions, and vote on each issue.

103. Vice-ChairmanChair

The Vice-ChairmanChair shall be the Acting ChairmanChair and shall perform all duties of the office whenever the ChairmanChair is absent.

104. Vacancy

Should the office of ChairmanChair shall succeed the ChairmanChair for the remaining term of office. At the next regular Commission meeting, a new election shall be held for the Vice-ChairmanChair office. Should the Vice-ChairmanChair office be vacated, a new election shall be held at the next regular Commission meeting to elect a Vice-ChairmanChair.

105. SubCcommittees

The Commission may appoint such subcommittees of its members, as it feels necessary on any subject pertinent to the matters being heard by and of natural concern to the Commission. The Commission may appoint one of its members to serve as chairman Chair of each subcommittee. These subcommittees shall be empowered to meet with Airport Administration, the City Council, and any other such official body or others as necessary to satisfy their respective purposes, and shall make such reports to the Commission as may be requested by a majority vote of the members of the Commission A subcommittee of the Commission may only be authorized by the City Council, in accordance with the Scottsdale Revised Code.

106. Legal Counsel

The City Attorney, or the City Attorney's designated representative, shall be the legal counsel for the Commission. Advice of counsel shall be received and entered in the minutes before disposition of any question of law or matter requiring legal interpretation or advice.

II. MEETINGS

201. Study Sessions

Study sessions of the Commission shall be held on the second Wednesday of each month at 65:00 p.m., unless otherwise scheduled by majority vote of its members.

202. Regular Meetings

Regular meetings of the Commission shall be held on the second Wednesday of each month immediately following the study session, unless otherwise scheduled by majority vote of its members. In the event the Commission desires not to hold the preceding study session, the regular meeting shall begin at 65:00 p.m., unless otherwise scheduled by majority vote of its members.

203. Special Meetings

Special meetings may be held by the Commission on the majority vote of its members, or on the call of its ChairmanChair, which call shall be filed with the Airport DirectorAviation Director. The manner of the call shall be noted in the minutes of the special meeting, and at least twenty-four (24) hours notice of the meeting shall be given to each member. The Airport DirectorAviation Director shall receive forty-eight (48) hours notice and shall post meeting notices at least twenty-four (24) hours before any such meeting.

204. Executive Session

Executive sessions may be held before or after any regular or special meeting, or at any other time on call of the Chair, which shall be filed with the Airport Director Aviation Director shall post meeting notices at least twenty-four (24) hours before any such meeting.

205. Quorum

A quorum necessary for the transaction of business shall consist of four (4) members of the Commission. The business of the Commission shall be transacted by the majority vote of members present, except as provided in Section 401.

206. Absence of the ChairmanChair and Vice-ChairmanChair

In the absence of the <u>ChairmanChair</u> and Vice-<u>ChairmanChair</u>, the senior Commission member present may convene the meeting.

207. Member Attendance

If any member of the Commission shall be absent from three (3) consecutive or four (4) of six (6) consecutively scheduled meetings, without good cause and prior notice to the Chairman or Vice-ChairmanChair, the Chairman shall notify the Mayor of said action Commission members shall follow the attendance requirements in accordance with the Scottsdale Revised Code.

208. Public Comment, Presentations, Time Limitations

The CommissionChair, by majority vote of its members, may provide additional time limit to members of the public, whether speaking on their own behalf or as a representative of an organization or group, to a over three (3) minutes presentation on any matter.

209. Agenda Items

The Airport Director Aviation Director will place items on the agenda with the concurrence of the Chairman Chair, or by a majority vote of the members of the Commission.

210. Conflict of Interest

All members of the Commission shall comply with the State Conflict of Interest Law, Title 38, Chapter 3, Article 8, Arizona Revised Statutes.

211. Abstention

Any member who may subjectively believe participating in discussion or voting on cases coming before the Commission could give the appearance to the general public of a conflict of interest may voluntarily abstain from participating in such cases.

III. OFFICIAL RECORDS

301. Definition

The official record shall include these by-laws, and the minutes of the Commission meetings, together with all applications, exhibits, correspondence, findings, decisions and other official actions or other items filed with or issued by the Commission.

302. Recording of Vote

Minutes shall be kept for all meetings of the Commission and shall show the vote of each member on every question on which the Commission is required to act, or shall indicate absence or failure to vote. Minutes shall also show records of all other official actions.

303. Retention of Files

All applications and other matters coming before the Commission shall be filed in the Airport Aviation Administration Office Department in accordance with that department's general file system. The Airport DirectorAviation Director shall keep a permanent file of all applications, exhibits, findings, correspondence, decisions and other official actions of the Commission. The tape recordings of the public hearings of the Commission, if any, shall be retained intact for not less than thirty (30) days after the City Council shall make a final decision in the specific subject on the tape. Original applications shall be retained as long as is required by standard City procedure.

304. Public Record

In accordance with Arizona public record law, all of the public records of the Commission shall be open to public inspection during normal business hours.

IV. RULES AND AMENDMENTS

401. Amendment Procedure

Amendments to these by-laws may be made by the Commission upon the affirmative vote of four (4) members, provided any such amendment is proposed at a preceding meeting, or is submitted in writing at a prior regular meeting of the Commission and is noted in the minutes of such meeting. Amendments adopted as above shall become effective at the next regular meeting of the Commission.

402. Copy of By-Laws

A certified copy of these by-laws and any amendments thereto shall be placed on record in the Airport Administration Office-Aviation Department and the City Clerk within ten (10) days of the date of their adoption.

403. Robert's Rules of Order

When any question of parliamentary procedure arises, it shall be decided on the basis of Robert's Rules of Parliamentary Procedure, unless otherwise specified in these by-laws of the Commission.

404. Written Communications

All written communications to outside groups shall be sent out over the signature of the ChairmanChair or Vice-ChairmanChair of the Commission.

405. Interpretation and Conflict

In the event that any Commission by-law shall be at variance with any State statute or any ordinance or resolution of the City of Scottsdale, the statute, ordinance, or resolution shall prevail. These by-laws are intended only to supplement such ordinance and resolutions and may not amend, annul or abrogate any ordinance or resolution of the City of Scottsdale.

Arthur R. RosenGunnar Buzzard, ChairmanChair Airport Advisory Commission	Date
Scott T. GrayGary P, Mascaro, C.M., C.A.E. Aviation Director	Date
APPROVED AS TO FORM:	
Deborah RobbersonBruce Washburn City Attorney	Date
By Clifford J. Frey	

Senior Assistant City Attorney

Sec. 5-109. Airport Advisory Commission.

- (a) There is created a Scottsdale Airport Advisory Commission consisting of seven (7) members.
- (b) The Airport Advisory Commission shall establish bylaws to govern its affairs. The bylaws shall designate:
 - 1. Officers of the Airport Advisory Commission, the time and manner of their election, the term of office and the powers and duties of each officer.
 - 2. The time, place and manner of notice of all regular and special meetings.
 - The manner of adoption, amendment and repeal of Airport Advisory Commission bylaws.
 - 4. Such other provisions as may be deemed necessary or desirable which are not contrary to the provisions of any ordinance or resolution, the charter or the laws of this state or the United States, to aid the Airport Advisory Commission in conducting its affairs.
- (c) The Airport Advisory Commission shall, with the assistance of the city staff, advise the City Council as necessary on:
 - 1. The Airport capital improvement program and financial plan.
 - 2. Rules, regulations, and minimum operating standards under this chapter.
 - 3. Environmental policies affecting Airport operations and Airport projects.
 - 4. Aviation-related development proposals at and surrounding the Airport or other development proposals in conflict with 14 C.F.R. Part 150, as amended, or other aviation-related laws, ordinances, rules, regulations or planning documents. In addition to advising the City Council, the Airport Advisory Commission may take action to inform the Planning Commission of such conflicts.
 - 5. Fees imposed by the city in connection with the Airport and the Airpark.
 - 6. Lease policies regarding city-owned property at the Airport.
 - 7. Land use policies at and surrounding the Airport in conflict with 14 C.F.R. Part 150, as amended, or other aviation-related laws, ordinances, rules, regulations or planning documents. In addition to advising the City Council, the Airport Advisory Commission may take action to inform the Planning Commission of such conflicts.
 - 8. The future role of the Airport as part of the statewide air transportation system.
 - 9. Safety matters under the jurisdiction of the Airport.
 - Such other matters as the City Council may direct.

- (d) At the request of the City Council, the Airport Advisory Commission shall submit a written report regarding Airport activities.
- (e) The Airport Advisory Commission shall perform such other duties as are imposed on the Airport Advisory Commission by this chapter.
- (f) The City Council shall have the right and prerogative to initiate review of any decision of the Airport Advisory Commission and shall uphold, modify, or overrule said decision.



Discussion and Input Regarding the Airport Commission Liaison Program

Agenda Item No.: 14

Meeting Date: 10/05/11

Staff Contact: Gunnar Buzzard,

Chair

Phone: (480) 312-2321

INFORMATION

Discussion and Input regarding the Airport Commission Liaison (ACL) Program.

PURPOSE

The ACL program was established by the Airport Advisory Commission on April 14, 2010. The purpose of the program would create a number of key strategic focus areas important to the Airport now and in the next five (5) to ten (10) years. The ACL will assign Commissioners to specific strategic focus areas. The following are the focus areas and respective Commissioners currently assigned:

Air Fair	Chair Buzzard
Safety	Commissioner Casey
Security	Commissioner Goode
Scottsdale Airport Regulations and Standards	Chair Buzzard and Commissioner Schuckert
Planning, Development, and Redevelopment	Commissioner Bergdoll
Community Communications and Public Relations	Commissioner Washington



Discussion and Input Regarding Operations Report for August 2011

Agenda Item No.: 15a

Meeting Date: 10/05/11

Staff Contact: Chris Read, Airport Operations Manager

Phone: (480) 312-2674

INFORMATION

Airport Monthly Operations Update for August 2011.

PURPOSE

The purpose of this item is to keep the Airport Advisory Commission informed of the operational status of the Airport.

-		The Marchine Review	er deciving to		
		BASED A	IRCRAFT		Cont.
l.	<u>Helicopter</u>	Single Engine	<u>Twin Engine</u>	<u>Jet</u>	<u>Total</u>
Current Month	26	234	46	121	427
August 2010	23	232	49	121	425
% Δ	13.04	.86	-6.12	0	.47

		X	OPERATIONS			
	August 2010	<u>August 2011</u>	<u>% </u>	2010 YTD	<u>2011 YTD</u>	<u>% ∆</u>
Total	9,229	10,118	9.6	88,458	95,210	7.6
IFR	1,694	1,807	6.7	21,174	23,352	10.3

		ALERTS	
<u>Date</u>	<u>Type</u>	Description	
8/25/11	2	Cessna 172 RG, faulty gear indication	
8/27/11	2	A-Star helicopter (AS 330B-2), generator problem	

		INCIDENTS	
<u>Date</u>	<u>Time</u>	Description	
8/01/11	11:45	Challenger 604, fuel spill Landmark Aviation ramp	
8/09/11	06:25	Tenant demeanor problem at City Shades	
8/17/11	16:35	Cirrus SR22, blown tire while taxiing	

Commission Information ReportAirport Monthly Operations Update for August 2011

Agenda Item No.: 15a

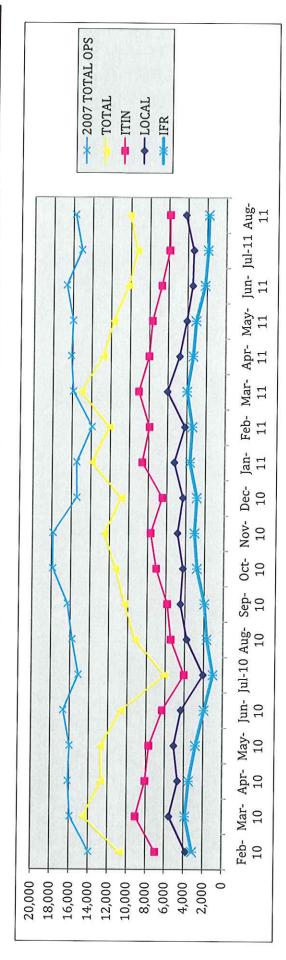
	ENFO	RCEMENT ACTION	S
<u>Date</u>	<u>Violation</u>	Enforcement Method Used	Comments
8/02/11	Failure to display company signage on mobile aircraft washing services vehicle	Verbal	No Further Action Unless Repeated
8/24/11	Unflagged crane near airport	Verbal	No Further Action Unless Repeated
8/27/11	Prolonged storage of unsightly aircraft (flat tires)	Verbal	No Further Action Unless Repeated

Attachment(s): 1. Scottsdale Airport Operations 2010 –2011 2. LY Monthly Operations Comparisons



SCOTTSDALE AIRPORT OPERATIONS 2010-2011

Feb-10 Mar-10 Apr-10 Jun-10 Jun-10 Aug-10 Sep-10 Oct-10 Nov-10 Dec-10 Jan-11 Feb-11 Mar-11 Apr-11 Apr-11<																				
9,038 8,056 7,670 6,299 4,044 5,438 5,843 7,051 7,671 6,468 8,630 7,902 9,051 7,987 7,668 5,505 4,642 5,067 4,345 2,052 3,791 4,482 4,256 4,862 4,328 5,268 4,196 6,047 4,801 4,067 3,841 3,479 2,782 1,021 1,694 1,964 2,782 3,066 2,875 3,614 3,398 3,991 3,376 3,094 14,543 12,698 12,737 10,644 6,096 9,229 10,325 11,307 12,533 10,796 13,898 12,098 15,098 12,788 11,735 1		Feb-10	Mar-10	Apr-10	May-10	Jun-10	[wl-10	Aug-10	Sep-10	Oct-10	Nov-10	Doc-10	Ton-12	Eoh. 14	26.00	***	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	1	6.0.0	
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5,505 4,642 5,067 4,345 2,052 3,791 4,482 4,256 4,862 4,328 5,268 4,196 6,047 4,801 4,067 3,398 3,991 3,376 3,094 3,398 3,991 3,376 3,094 <th< td=""><td>NITI</td><td>6,955</td><td></td><td>- 1</td><td></td><td></td><td></td><td></td><td>5,843</td><td>7,051</td><td>7,671</td><td>6,468</td><td>8.630</td><td>7.902</td><td>9.051</td><td>7 987</td><td>7,668</td><td>6 600</td><td>2000</td><td>F 071</td></th<>	NITI	6,955		- 1					5,843	7,051	7,671	6,468	8.630	7.902	9.051	7 987	7,668	6 600	2000	F 071
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3,841 3,479 2,782 1,929 1,021 1,694 1,964 2,782 3,066 2,875 3,614 3,398 12,098 12,737 10,644 6,096 9,229 10,325 11,307 12,533 10,796 13,898 12,098 15,098 12,788 11,735 1	LOCAL	3,747		Į,					4,482	4,256	4.862	4.328	5.268	4 196	6.047	4.801	7307	2 407	2000	1,0,1
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14,543 12,698 12,737 6,096 9,229 10,325 11,307 12,533 10,796 13,898 12,098 15,098 12,788 11,735	IFR	3,078						1,694	1,964	2,782	3.066	2.875	3614	3 398	2 991	2 276	2 004	2 101	1 001	7
14,543 12,698 12,737 10,644 6,096 9,229 10,325 11,307 12,533 10,796 13,898 12,098 15,098 12,788 11,735												1	1	2000	7///	0/0,0	2,004	101'7	1,69,1	1,807
11,133	TOTAL	10,702						9,229	10,325	11,307	12,533	10.796	13.898	12.098	15.098	12 788	11 725	10 106	0000	01101
												2016	20/22	0000	0000	77,700	CC / 'TT	10,100	2,489	10,118



** July 2010 Operational Numbers Abnormally Low Due to 11 Day Runway Closure**

Monthly Operations Comparisons

Tith		Jan-09	Jan-10 9	% Change		Jan-10	Jan-11 %	Change
Total	Itin	9,437	7,815	-17.2%	Itin	7,815	8,630	10.4%
Total		5,105	3,994	-21.8%	Local	3,994	5,268	31.9%
Feb-09	The second secon		3,350	-1.2%	IFR	3,350	3,614	7.9%
Tith B,296 6,955 -16.2% Lith 6,955 7,902 13.6% Local 4,789 3,747 -21.8% IFR 3,078 3,398 10.4% Total 13,085 10,702 -18.2% Total 10,702 12,098 13.0%	Total	14,542	11,809	-18.8%	Total	11,809	13,898	17.7%
Tith B,296 6,955 -16.2% Lith 6,955 7,902 13.6% Local 4,789 3,747 -21.8% IFR 3,078 3,398 10.4% Total 13,085 10,702 -18.2% Total 10,702 12,098 13.0%		Feb-09	Feb-10 %	6 Change		Feb-10	Feb-11 %	Change
Total	Itin	8,296			Itin	6,955		
Total	Local	4,789	3,747	-21.8%	Local	3,747	4,196	12.0%
Mar-09	IFR	2,867	3,078	7.4%	IFR	3,078	3,398	10.4%
Itin	Total	13,085	10,702	-18.2%	Total	10,702	12,098	13.0%
Itin		Mar-09	Mar-10 %	6 Change	1	Mar-10	Mar-11 %	Change
Total	Itin				Itin			
Total	Local	5,314	5,505	3.6%	Local	5,505	6,047	9.8%
Itin 8,977 8,056 -10.3% Itin 8,056 7,987 -0.9% Local 4,624 4,642 0.4% Local 4,642 4,801 3.4% IFR 3,479 3,376 -3.0% Total 13,601 12,698 -6.6% Total 12,698 12,788 0.7% Itin 8,492 7,670 -9.7% Itin 7,670 7,668 0.0% IFR 2,602 2,782 6.9% IFR 2,602 2,782 6.9% IFR 2,782 3,094 11.2% Total 13,701 12,737 -7.0% Total 12,737 11,735 -7.9% Itin 6,299 6,699 6.4% Local 5,169 4,345 -15.9% Local 4,345 3,487 -19.7% IFR 1,921 1,929 0.4% IFR 1,929 2,181 13.1% Total 12,910 10,644 -17.6% Total 10,644 10,186 -4.3% Itin 4,044 5,892 45.7% Local 4,723 2,052 56.6% Local 2,052 3,397 65.5% IFR 1,623 1,021 -37.1% IFR 1,021 1,891 85.2% Total 11,855 6,096 -48.6% Total 6,096 9,289 52.4% Itin 5,438 5,871 8.0% Local 5,637 3,791 -32.7% Local 3,791 4,247 12.0% IFR 1,694 1,807 6.7% IFR 1,694 1,807	IFR	3,471	3,841	10.7%	IFR	3,841	3,991	3.9%
Itin	Total	14,896	14,543	-2.4%	Total	14,543	15,098	3.8%
Itin	[Apr-09	Apr-10 %	6 Change		Apr-10	Apr-11 %	Change
Total 13,601 12,698 -6.6% Total 12,698 12,788 0.7%	Itin			the same of the sa	Itin			
Total 13,601 12,698 -6.6% Total 12,698 12,788 0.7%	Local	4,624	4,642	0.4%	Local	4,642	4,801	3.4%
Total 13,601 12,698 -6.6% Total 12,698 12,788 0.7%	IFR	3,037	3,479	14.6%	IFR	3,479		
Itin	Total	13,601	12,698	-6.6%	Total	12,698	12,788	0.7%
Itin								
Total 13,701 12,737 -7.0% Total 12,737 11,735 -7.9% Total 12,737 11,735 -7.9% Total 12,737 11,735 -7.9% Total 12,737 11,735 -7.9% Total 12,737 11,735 -7.9% Total 12,737 11,735 -7.9% Total 12,737 11,735 -7.9% Total 12,737 11,735 -7.9% Total 12,737 11,735 -7.9% Total 12,737 11,735 -7.9% Total 10,649 6,699 6,4% 6,299 6,699 6,699 6,699 6,4% 6,299 6,699 6,4% 6,299 6,699 6,4% 6,299 6,699 6,699 6,4% 6,299 6,699 6,4% 6,299 6,699 6,4% 6,299 6,699 6,4% 6,299 6,699 6,4% 6,299 6,699 6,4% 6,299 6,699 6,4% 6,299 6,699 6,4% 6,299 6,699 6,4% 6,299 6,699 6,4% 6,299 6,699 6,4% 6,299 6,699 6,4% 6,299 6,699 6,4% 6,299 6,299 6,699 6,4% 6,299 6,699 6,4% 6,299 6,699 6,4% 6,299 6,299		May-09	May-10 %	Change		May-10	May-11 %	Change
Total 13,701 12,737 -7.0% Total 12,737 11,735 -7.9%	Itin				Itin			The second second second
Jun-09 Jun-10 % Change Jun-10 Jun-11 % Change Itin 7,741 6,299 -18.6% Local 5,169 4,345 -15.9% Local 4,345 3,487 -19.7% IFR 1,921 1,929 0.4% IFR 1,929 2,181 13.1% Total 12,910 10,644 -17.6% Total 10,644 10,186 -4.3%		8,492	7,670	-9.7%	T 8727 CO. N. J. C. C. C.	7,670	7,668	0.0%
Itin	Local	8,492 5,290	7,670 5,067	-9.7% -4.2%	Local	7,670 5,067	7,668 4,067	0.0% -19.7%
Itin	Local IFR	8,492 5,290 2,602	7,670 5,067 2,782	-9.7% -4.2% 6.9%	Local IFR	7,670 5,067 2,782	7,668 4,067 3,094	0.0% -19.7% 11.2%
Local 5,169 4,345 -15.9% Local 4,345 3,487 -19.7% IFR 1,921 1,929 0.4% IFR 1,929 2,181 13.1% Total 12,910 10,644 -17.6% Total 10,644 10,186 -4.3% Itin 4,044 5,892 45.7% Local 4,723 2,052 -56.6% Local 2,052 3,397 65.5% IFR 1,623 1,021 -37.1% IFR 1,021 1,891 85.2% Total 11,855 6,096 -48.6% Total 6,096 9,289 52.4% Local 5,637 3,791 -32.7% Local 3,791 4,247 12.0% IFR 1,694 1,694 1,807 6.7% Local 1,694 1,807 6.7% Local 1,694 1,807 6.7%	Local IFR	8,492 5,290 2,602 13,701	7,670 5,067 2,782 12,737	-9.7% -4.2% 6.9% -7.0%	Local IFR	7,670 5,067 2,782 12,737	7,668 4,067 3,094 11,735	0.0% -19.7% 11.2% -7.9%
Total 1,921 1,929 0.4% IFR 1,929 2,181 13.1% 12,910 10,644 -17.6% Total 10,644 10,186 -4.3%	Local IFR Total	8,492 5,290 2,602 13,701 Jun-09	7,670 5,067 2,782 12,737 Jun-10 %	-9.7% -4.2% 6.9% -7.0%	Local IFR Total	7,670 5,067 2,782 12,737 Jun-10	7,668 4,067 3,094 11,735	0.0% -19.7% 11.2% -7.9%
Itin	Local IFR Total	8,492 5,290 2,602 13,701 Jun-09 7,741	7,670 5,067 2,782 12,737 Jun-10 %	-9.7% -4.2% 6.9% -7.0% • Change -18.6%	Local IFR Total Itin	7,670 5,067 2,782 12,737 Jun-10	7,668 4,067 3,094 11,735 Jun-11 % 6,699	0.0% -19.7% 11.2% -7.9% Change 6.4%
Itin 7,132 4,044 -43.3% Itin 4,044 5,892 45.7% Local 4,723 2,052 -56.6% Local 2,052 3,397 65.5% IFR 1,623 1,021 -37.1% IFR 1,021 1,891 85.2% Total 11,855 6,096 -48.6% Total 6,096 9,289 52.4% Aug-09 Aug-10 % Change Aug-10 Aug-11 % Change Itin 7,187 5,438 -24.3% Itin 5,438 5,871 8.0% Local 5,637 3,791 -32.7% Local 3,791 4,247 12.0% IFR 1,673 1,694 1.3% IFR 1,694 1,807 6.7%	Local IFR Total Itin Local	8,492 5,290 2,602 13,701 Jun-09 7,741 5,169	7,670 5,067 2,782 12,737 Jun-10 % 6,299 4,345	-9.7% -4.2% 6.9% -7.0% • Change -18.6% -15.9%	Local IFR Total Itin Local	7,670 5,067 2,782 12,737 Jun-10 6,299 4,345	7,668 4,067 3,094 11,735 Jun-11 % 6,699 3,487	0.0% -19.7% 11.2% -7.9% Change 6.4% -19.7%
Itin 7,132 4,044 -43.3% Itin 4,044 5,892 45.7% Local 4,723 2,052 -56.6% Local 2,052 3,397 65.5% IFR 1,623 1,021 -37.1% IFR 1,021 1,891 85.2% Total 11,855 6,096 -48.6% Total 6,096 9,289 52.4% Aug-09 Aug-10 % Change Aug-10 Aug-11 % Change Itin 7,187 5,438 -24.3% Itin 5,438 5,871 8.0% Local 5,637 3,791 -32.7% Local 3,791 4,247 12.0% IFR 1,673 1,694 1.3% IFR 1,694 1,807 6.7%	Local IFR Total Itin Local IFR	8,492 5,290 2,602 13,701 Jun-09 7,741 5,169 1,921	7,670 5,067 2,782 12,737 Jun-10 % 6,299 4,345 1,929	-9.7% -4.2% 6.9% -7.0% 6 Change -18.6% -15.9% 0.4%	Local IFR Total Itin Local IFR	7,670 5,067 2,782 12,737 Jun-10 6,299 4,345 1,929	7,668 4,067 3,094 11,735 Jun-11 % 6,699 3,487 2,181	0.0% -19.7% 11.2% -7.9% Change 6.4% -19.7% 13.1%
Local 4,723 2,052 -56.6% Local 2,052 3,397 65.5% IFR 1,623 1,021 -37.1% IFR 1,021 1,891 85.2% Total 11,855 6,096 -48.6% Total 6,096 9,289 52.4% Aug-09 Aug-10 % Change Aug-10 Aug-11 % Change Itin 5,438 -24.3% Itin 5,438 5,871 8.0% Local 5,637 3,791 -32.7% Local 3,791 4,247 12.0% IFR 1,673 1,694 1.3% IFR 1,694 1,807 6.7%	Local IFR Total Itin Local IFR	8,492 5,290 2,602 13,701 Jun-09 7,741 5,169 1,921 12,910	7,670 5,067 2,782 12,737 Jun-10 % 6,299 4,345 1,929 10,644	-9.7% -4.2% 6.9% -7.0% • Change -18.6% -15.9% 0.4% -17.6%	Local IFR Total Itin Local IFR	7,670 5,067 2,782 12,737 Jun-10 6,299 4,345 1,929 10,644	7,668 4,067 3,094 11,735 Jun-11 % 6,699 3,487 2,181 10,186	0.0% -19.7% 11.2% -7.9% Change 6.4% -19.7% 13.1% -4.3%
IFR Total 1,623 1,021 -37.1% IFR Total 1,021 1,891 85.2% Aug-10 Aug-10 Change Aug-10 Aug-11 Change Itin 7,187 5,438 -24.3% Itin 5,438 5,871 8.0% Local 5,637 3,791 -32.7% Local 3,791 4,247 12.0% IFR 1,673 1,694 1.3% IFR 1,694 1,807 6.7%	Local IFR Total Itin Local IFR Total	8,492 5,290 2,602 13,701 Jun-09 7,741 5,169 1,921 12,910	7,670 5,067 2,782 12,737 Jun-10 % 6,299 4,345 1,929 10,644 Jul-10 %	-9.7% -4.2% 6.9% -7.0% Change -18.6% -15.9% 0.4% -17.6% Change	Local IFR Total Itin Local IFR Total	7,670 5,067 2,782 12,737 Jun-10 6,299 4,345 1,929 10,644	7,668 4,067 3,094 11,735 Jun-11 % 6,699 3,487 2,181 10,186	0.0% -19.7% 11.2% -7.9% Change 6.4% -19.7% 13.1% -4.3% Change
Aug-09 Aug-10 Change Itin 7,187 5,438 -24.3% Local 5,637 3,791 -32.7% IFR 1,673 1,694 1.3% Total 6,096 9,289 52.4% Aug-10 Aug-11 Change Itin 5,438 5,871 8.0% Local 3,791 4,247 12.0% IFR 1,694 1,807 6.7%	Local IFR Total Itin Local IFR Total	8,492 5,290 2,602 13,701 Jun-09 7,741 5,169 1,921 12,910 Jul-09 7,132	7,670 5,067 2,782 12,737 Jun-10 % 6,299 4,345 1,929 10,644 Jul-10 % 4,044	-9.7% -4.2% 6.9% -7.0% 6.9h -18.6% -15.9% 0.4% -17.6% 6.9h -17.6%	Local IFR Total Itin Local IFR Total	7,670 5,067 2,782 12,737 Jun-10 6,299 4,345 1,929 10,644 Jul-10 4,044	7,668 4,067 3,094 11,735 Jun-11 % 6,699 3,487 2,181 10,186 Jul-11 % 5,892	0.0% -19.7% 11.2% -7.9% Change 6.4% -19.7% 13.1% -4.3% Change 45.7%
Itin 7,187 5,438 -24.3% Itin 5,438 5,871 8.0% Local 5,637 3,791 -32.7% Local 3,791 4,247 12.0% IFR 1,694 1,807 6.7%	Local IFR Total Itin Local IFR Total Itin Local	8,492 5,290 2,602 13,701 Jun-09 7,741 5,169 1,921 12,910 Jul-09 7,132 4,723	7,670 5,067 2,782 12,737 Jun-10 % 6,299 4,345 1,929 10,644 Jul-10 % 4,044 2,052	-9.7% -4.2% 6.9% -7.0% 6.6 Change -18.6% -15.9% 0.4% -17.6% 6 Change -43.3% -56.6%	Local IFR Total Itin Local IFR Total Itin Local	7,670 5,067 2,782 12,737 Jun-10 6,299 4,345 1,929 10,644 Jul-10 4,044 2,052	7,668 4,067 3,094 11,735 Jun-11 % 6,699 3,487 2,181 10,186 Jul-11 % 5,892 3,397	0.0% -19.7% 11.2% -7.9% Change 6.4% -19.7% 13.1% -4.3% Change 45.7% 65.5%
Itin 7,187 5,438 -24.3% Itin 5,438 5,871 8.0% Local 5,637 3,791 -32.7% Local 3,791 4,247 12.0% IFR 1,694 1,807 6.7%	Local IFR Total Itin Local IFR Total Itin Local IFR	8,492 5,290 2,602 13,701 Jun-09 7,741 5,169 1,921 12,910 Jul-09 7,132 4,723 1,623	7,670 5,067 2,782 12,737 Jun-10 % 6,299 4,345 1,929 10,644 Jul-10 % 4,044 2,052 1,021	-9.7% -4.2% 6.9% -7.0% Change -18.6% -15.9% 0.4% -17.6% Change -43.3% -56.6% -37.1%	Local IFR Total Itin Local IFR Total Itin Local IFR	7,670 5,067 2,782 12,737 Jun-10 6,299 4,345 1,929 10,644 Jul-10 4,044 2,052 1,021	7,668 4,067 3,094 11,735 Jun-11 % 6,699 3,487 2,181 10,186 Jul-11 % 5,892 3,397 1,891	0.0% -19.7% 11.2% -7.9% Change 6.4% -19.7% 13.1% -4.3% Change 45.7% 65.5% 85.2%
Local 5,637 3,791 -32.7% Local 3,791 4,247 12.0% IFR 1,673 1,694 1.3% IFR 1,694 1,807 6.7%	Local IFR Total Itin Local IFR Total Itin Local IFR	8,492 5,290 2,602 13,701 Jun-09 7,741 5,169 1,921 12,910 Jul-09 7,132 4,723 1,623 11,855	7,670 5,067 2,782 12,737 Jun-10 % 6,299 4,345 1,929 10,644 Jul-10 % 4,044 2,052 1,021 6,096	-9.7% -4.2% 6.9% -7.0% Change -18.6% -15.9% 0.4% -17.6% Change -43.3% -56.6% -37.1% -48.6%	Local IFR Total Itin Local IFR Total Itin Local IFR	7,670 5,067 2,782 12,737 Jun-10 6,299 4,345 1,929 10,644 Jul-10 4,044 2,052 1,021 6,096	7,668 4,067 3,094 11,735 Jun-11 % 6,699 3,487 2,181 10,186 Jul-11 % 5,892 3,397 1,891 9,289	0.0% -19.7% 11.2% -7.9% Change 6.4% -19.7% 13.1% -4.3% Change 45.7% 65.5% 85.2% 52.4%
IFR 1,673 1,694 1.3% IFR 1,694 1,807 6.7%	Local IFR Total Itin Local IFR Total Itin Local IFR Total IFR Total	8,492 5,290 2,602 13,701 Jun-09 7,741 5,169 1,921 12,910 Jul-09 7,132 4,723 1,623 11,855 Aug-09	7,670 5,067 2,782 12,737 Jun-10 % 6,299 4,345 1,929 10,644 Jul-10 % 4,044 2,052 1,021 6,096 Aug-10 %	-9.7% -4.2% 6.9% -7.0% 6.9h -18.6% -15.9% 0.4% -17.6% 6.0hange -43.3% -56.6% -37.1% -48.6% 6.0hange	Local IFR Total Itin Local IFR Total Itin Local IFR Total IFR Total	7,670 5,067 2,782 12,737 Jun-10 6,299 4,345 1,929 10,644 Jul-10 4,044 2,052 1,021 6,096	7,668 4,067 3,094 11,735 Jun-11 % 6,699 3,487 2,181 10,186 Jul-11 % 5,892 3,397 1,891 9,289 Aug-11 %	0.0% -19.7% 11.2% -7.9% Change 6.4% -19.7% 13.1% -4.3% Change 45.7% 65.5% 85.2% 52.4% Change
	Local IFR Total Itin Local IFR Total Itin Local IFR Total IFR Total	8,492 5,290 2,602 13,701 Jun-09 7,741 5,169 1,921 12,910 Jul-09 7,132 4,723 1,623 11,855 Aug-09 7,187	7,670 5,067 2,782 12,737 Jun-10 % 6,299 4,345 1,929 10,644 Jul-10 % 4,044 2,052 1,021 6,096 Aug-10 % 5,438	-9.7% -4.2% 6.9% -7.0% Change -18.6% -15.9% 0.4% -17.6% Change -43.3% -56.6% -37.1% -48.6% Change -24.3%	Local IFR Total Itin Local IFR Total Itin Local IFR Total IFR Total	7,670 5,067 2,782 12,737 Jun-10 6,299 4,345 1,929 10,644 Jul-10 4,044 2,052 1,021 6,096 Aug-10 5,438	7,668 4,067 3,094 11,735 Jun-11 % 6,699 3,487 2,181 10,186 Jul-11 % 5,892 3,397 1,891 9,289 Aug-11 % 5,871	0.0% -19.7% 11.2% -7.9% Change 6.4% -19.7% 13.1% -4.3% Change 45.7% 65.5% 85.2% 52.4% Change 8.0%
	Local IFR Total Itin Local IFR Total Itin Local IFR Total Itin Local IFR Total	8,492 5,290 2,602 13,701 Jun-09 7,741 5,169 1,921 12,910 Jul-09 7,132 4,723 1,623 11,855 Aug-09 7,187 5,637	7,670 5,067 2,782 12,737 Jun-10 % 6,299 4,345 1,929 10,644 Jul-10 % 4,044 2,052 1,021 6,096 Aug-10 % 5,438 3,791	-9.7% -4.2% 6.9% -7.0% 6.9h -7.0% 6.9h -18.6% -15.9% 0.4% -17.6% 6.9h -43.3% -56.6% -37.1% -48.6% 6.9h -43.3% -54.3% -32.7%	Local IFR Total Itin Local IFR Total Itin Local IFR Total Itin Local IFR Total	7,670 5,067 2,782 12,737 Jun-10 6,299 4,345 1,929 10,644 Jul-10 4,044 2,052 1,021 6,096 Aug-10 5,438 3,791	7,668 4,067 3,094 11,735 Jun-11 % 6,699 3,487 2,181 10,186 Jul-11 % 5,892 3,397 1,891 9,289 Aug-11 % 5,871 4,247	0.0% -19.7% 11.2% -7.9% Change 6.4% -19.7% 13.1% -4.3% Change 45.7% 65.5% 85.2% 52.4% Change 8.0% 12.0%

	Sep-09	Sep-10 9	6 Change
Itin	7,492	5,843	-22.0%
Local	7,242	4,482	-38.1%
IFR	1,901	1,964	3.3%
Total	14,734	10,325	-29.9%

	Oct-09	Oct-10	% Change
Itin	8,072	7,051	-12.6%
Local	6,492	4,256	-34.4%
IFR	2,678	2,782	3.9%
Total	14,564	11,307	-22.4%

	Nov-09	Nov-10	% Change
Itin	9,315	7,671	-17.6%
Local	6,657	4,862	-27.0%
IFR	2,977	3,066	3.0%
Total	15,972	12,533	-21.5%

	Dec-09	Dec-10	% Change
Itin	7,773	6,468	-16.8%
Local	6,041	4,328	-28.4%
IFR	2,512	2,875	14.5%
Total	13,814	10,796	-21.8%

TOTALS	2009	2010	% Change		
Itin	99,496	82,348	-17.2%		
Local	67,002	51,071	-23.8%		
IFR	30,652	31,861	3.9%		
Total	166,498	133,419	-19.9%		

PRE-RECESSION COMPARISON

	Aug-07	Aug-11 % Change			
Itin	10,094	5,871	-41.8%		
Local	5,706	4,247	-25.6%		
IFR	2,992	1,807	-39.6%		
Total	15,800	10,118	-36.0%		



Discussion and Input Regarding Operations Report for September 2011

Agenda Item No.: 15b

Meeting Date: 10/05/11

Staff Contact: Chris Read, Airport Operations Manager

Phone: (480) 312-2674

INFORMATION

Airport Monthly Operations Update for September 2011.

PURPOSE

The purpose of this item is to keep the Airport Advisory Commission informed of the operational status of the Airport.

The September 2011 Operations Update will be available at the meeting.



Discussion and Input Regarding Quarterly Noise Complaint Summary

Agenda Item No.: 16

Meeting Date: 10/05/2011

Staff Contact: Kate O'Malley, Planning & Outreach Coordinator

Phone: (480) 312-8482

INFORMATION

Aviation staff will update the Airport Advisory Commission regarding aircraft noise complaints received during the third quarter of 2011.

PURPOSE

Community members that wish to report their concerns pertaining to aircraft noise and overflight activity associated with Scottsdale Airport air traffic may do so anytime by calling the aircraft noise report line or by submitting their complaint(s) via the Scottsdale Airport website. Each quarter a summary report is generated to depict the number of noise complaints that were received, along with the number of people who submitted complaints and a map depicting the location of where the complaints were generated.

KEY CONSIDERATIONS

- The quarterly noise complaint summary is used to identify and evaluate trends. It is not used to change flight procedures or restrict aircraft operating activity.
- It is normal to see increases and decreases in aircraft noise complaints associated with changes in weather and seasonal conditions.
- Aviation staff will respond to noise complaints within the Airport Noise Influence Area only when there is a specific request for a callback, or if the complainant is new.

Noise Complaint Summary for July 1, 2011 - September 30, 2011 will be available at the meeting.



Discussion and Input Regarding Monthly Financial Reports for July 2011 Agenda Item No: 17a

Meeting Date: 10/05/11

Staff Contact: Shannon Johnson,

Management Analyst **Phone:** (480) 312-8475

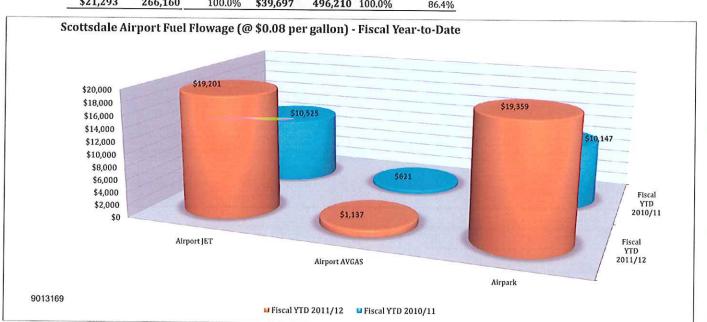
			AVIATION OPERATION	NG BUDGET				
			FISCAL YEAR 20	10/11				
		FY 2011/12	FY 2011/12		FY 2011/	12 Year to Da	te (through Ju	ıly 2011)
		Adopted	Approved		Approved		Dollar	%
		Budget	Budget		Budget	Actual	Variance	Variance
	Revenue	\$3,063,886	\$3,063,886	Revenue	\$275,540	\$321,113	\$45,573	179
	Expenses	\$1,705,659	\$1,705,659	Expenses	\$353,210	\$87,466	-\$265,744	-75%
	Net _	\$1,358,227	\$1,358,227	Net	-\$77,670	\$233,647	\$311,317	-4019
	AVIATION	FUND CASH BALANC	E	MONTHLY	REVENUE AND E	XPENDITURE C	OMPARISON (A	CTUALS)
	Operating	CIP Funds	Total		July	July	Dollar	%
As of 07/31/11	\$3,818,455	-\$356,816	\$3,461,639		2010	2011	Variance	Variance
As of 06/30/11	\$3,831,986	-\$287,610	\$3,544,376	Revenue	\$181,931	\$321,113	\$139,182	77%
				Expenses	\$84,144	\$87,466	\$3,322	4%
				Net	\$97,787	\$233,647	\$135,860	139%

ACCOUNTS RECEIVABLE AGING REPORT

			Jul-11					
		Current	1-30 Days	31-60 Days	61-90 Days	91-120 Days	>120 Days	Total Amt Due
All Accounts	Total	63,524.53	6,432.11	907.57	191.49	-242.40	-78.74	70,734.56

				Fuel I	lowage (@	\$0.08 pe	r gallon)
	July Revenue	2010 Gallons	% Total	1000	uly 2011	0/ 17 . 1	% Change
.000 D .0		ST. DOLLARS ST.	% Total	Revenue	Gallons	% Total	From Last Yr
Airport JET	\$10,525	131,558	49.4%	\$19,201	240,012	48.4%	82.4%
Airport AVGAS	\$621	7,759	2.9%	\$1,137	14,216	2.9%	83.2%
Airpark	\$10,147	126,843	47.7%	\$19,359	241,982	48.8%	90.8%
	\$21,293	266,160	100.0%	\$39,697	496,210	100.0%	86.4%

	Fiscal YTI	2010/11		Fiscal	12	% Change	
	Revenue	Gallons	% Total	Revenue	Gallons	% Total	From Last Yr
Airport JET	\$10,525	131,558	49.4%	\$19,201	240,012	48.4%	82.4%
Airport AVGAS	\$621	7,759	2.9%	\$1,137	14,216	2.9%	83.2%
Airpark	\$10,147	126,843	47.7%	\$19,359	241,982	48.8%	90.8%
	\$21,293	266,160	100.0%	\$39,697	496,210	100.0%	86,4%





Discussion and Input Regarding Monthly Financial Reports for August 2011

Agenda Item No: 17b

Meeting Date: 10/05/11

Staff Contact: Shannon Johnson,

Management Analyst Phone: (480) 312-8475

			AVIATION OPERATION	NG BUDGET				
			FISCAL YEAR 20	10/11				
		FY 2011/12	FY 2011/12		FY 2011/1	2 Year to Date	through Au	gust 2011)
		Adopted	Approved		Approved		Dollar	%
		Budget	Budget		Budget	Actual	Variance	Variance
	Revenue	\$3,063,886	\$3,063,886	Revenue	\$546,730	\$527,660	-\$19,070	-39
	Expenses	\$1,705,659	\$1,705,659	Expenses	\$457,408	\$205,783	-\$251,625	-559
	Net	\$1,358,227	\$1,358,227	Net	\$89,322	\$321,877	\$232,555	260
	AVIATIO	N FUND CASH BALANC	Е	MONTHLY	REVENUE AND E	XPENDITURE C	OMPARISON (A	CTUALS)
	Operating	CIP Funds	Total		August	August	Dollar	%
As of 08/31/11	\$3,849,808	-\$22,960	\$3,826,848		2010	2011	Variance	Variance
As of 07/31/11	\$3,815,052	-\$354,548	\$3,460,504	Revenue	\$274,005	\$206,547	-\$67,458	-259
				Expenses	\$170,101	\$118,317	-\$51,784	-309
				Net	\$103,904	\$88,230	-\$15,674	-159

ACCOUNTS RECEIVABLE AGING REPORT

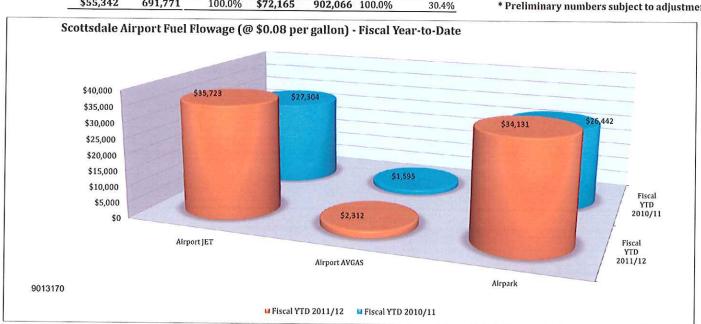
			Aug-11					
and a state of the		Current	1-30 Days	31-60 Days	61-90 Days	91-120 Days	>120 Days	Total Amt Due
All Accounts	Total	60,882.75	6,953.53	524.90	68.02	20.24	-267.50	68,181.94

Fuel	Flowage ((@	\$0.08	per	gallon)
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	August	August 2010			August 2011 *			
<u> </u>	Revenue	Gallons	% Total	Revenue	Gallons	% Total	From Last Yr	
Airport JET	\$16,779	209,740	49.3%	\$16,522	206,520	51.4%	-1.5%	
Airport AVGAS	\$975	12,183	2.9%	\$1,174	14,678	3.7%	20.5%	
Airpark_	\$16,295	5,295 203,688	47.9%	\$14,473	180,907	45.0%	-11.2%	
_	\$34,049	425,611	100.0%	\$32,168	402,105	100.0%	-5.5%	
	\$34,047	445,011	100.0%	334	,108	,168 402,105	,168 402,105 100.0%	

	Fiscal YTI	2010/11		Fiscal YTD 2011/12*			% Change	
	Revenue	Gallons	% Total	Revenue	Gallons	% Total	From Last Yr	
Airport JET	\$27,304	341,298	49.3%	\$35,723	446,532	49.5%	30.8%	
Airport AVGAS	\$1,595	19,942	2.9%	\$2,312	28,894	3.2%	44.9%	
Airpark	\$26,442	330,530	47.8%	\$34,131	426,640	47.3%	29.1%	
	\$55,342	691,771	100.0%	\$72,165	902,066	100.0%	30.4%	

^{*} Preliminary numbers subject to adjustment





Discussion and Input Regarding the Marketing, Community and Pilot
Outreach Programs

Agenda Item No.: 18

Meeting Date: 10/05/2011

Staff Contact: Kate O'Malley, Planning & Outreach Coordinator

Phone: (480) 312-8482

INFORMATION

Monthly update of the marketing, community and pilot outreach programs at Scottsdale Airport.

PURPOSE

The purpose of this item is to keep the Airport Advisory Commission informed of the airport's marketing and outreach efforts.

M	arketing Program		4.53 m (c. s.
#	Description	Purpose	Status
1	Channel 11 Video - Scottsdale Airport Close-Up, other segments to follow	Produce marketing video showcasing Scottsdale Airport. Explore other outreach efforts via Channel 11. Video is complete.	Complete
2	Tradeshows	Partnering with the Scottsdale CVB for outreach at NBAA conventions. Preparing for the 2011 annual conference – attending. Will exhibit in 2012.	In Progress
3	Leverage Social Media	Researching ways to utilize social media to promote the airport and the City of Scottsdale.	In Progress
Co	ommunity Outreach		
#	Description	Purpose	Status
1	Brochures, flyers, other print materials	Airport Fast Facts handout is being developed.	In progress
2	Website Updates	Permits and checklists are now available as electronically fillable forms. Updated regulatory documents are now on the website.	In Progress
3	2011 Air Fair	The 2011 Scottsdale Airport Air Fair will take place November 5-6. Working with the event manager, PSM2, to plan the event. www.scottsdaleairfair.com	In Progress
4	Monitor property development through the Planning Department	Work with the Planning Department to protect the airspace and development uses near Scottsdale Airport. In August and September, a total of 7 projects within the Airport Influence Area were listed in the Planning and Zoning reports.	On-going
5	Homeowner Association (HOA) Outreach	Meet with interested homeowner associations to discuss Scottsdale Airport programs, operating facts, and any Airport points of interest to individual HOAs. Available upon request.	As needed

1	Da-14 O1	M . 11 B . 1	
0	Realtor Outreach	Meet with Realtors and Real Estate Agents and provide disclosure information about Scottsdale Airport and its role in the community. This information is intended to be shared with prospective homebuyers prior to a home purchase. Available upon request. Will be exhibiting in February at the Scottsdale Area Association of Realtors Centennial event.	As needed
7	Community Outreach	Meet with schools, civic, and faith based organizations within the Airport Influence Area to discuss Scottsdale Airport programs, operating facts, and any Airport points of interest to individual community organization. Available upon request. Expanded the youth outreach to now include visits to schools. Available upon request.	As needed
8	Channel 11 Video - Scottsdale Airport and Aircraft Noise	Produce video showcasing Scottsdale Airport and aircraft noise information for community members.	Future project
9	Friendly Flight Forums	Encourage periodic educational opportunities for pilots to communicate with interested members of the community on physics of flight, aircraft parts, familiarization of procedures, and "see and touch" aircraft.	Future project
Pil	ot Outreach		
#	Description	Purpose	Status
1	Helicopter Pilot Guides	Helicopter pilot guides are complete.	Complete
2	Major Transient Operator Communication	Provide noise abatement education directly with major transient operators. Work with FBOs, aviation groups and tenants.	On-going
3	Stage 2 Operator Outreach	Communicate with Stage II aircraft operators to increase pilot awareness that Scottsdale Airport is surrounded by noise sensitive communities. If noise complaints from Stage II aircraft are received, aviation staff will work to make contact with the pilot (if possible) to remind them of the "fly neighborly" procedures.	As needed
4	Voluntary Curfew Outreach (10:00 p.m. – 6:00 a.m.)	Communicate with aircraft operators and remind pilots that noise sensitive communities surround Scottsdale Airport. Promote the voluntary curfew of 10:00 p.m 6:00 a.m. If noise complaints during the voluntary curfew hours are received, aviation staff will work to make contact with the pilot to remind them of the voluntary curfew procedures. In September 2011, sent out three voluntary curfew reminders.	As needed
	Pilot "Good Neighbor" Pledge	Document pilot support for Scottsdale Airport's noise abatement and community outreach programs, and generate increased pilot awareness and encouragement to operate neighborly.	As needed
6	Educational Video	Prepare an educational, interactive video for pilots highlighting the "fly neighborly" procedures at Scottsdale Airport. The educational video will be available on the airport website, and will be used at pilot briefings.	Future project



Discussion and Input Regarding Status of Aviation Items to City Council

Agenda Item No.: 19

Meeting Date: 10/05/11

Staff Contact: Gary P. Mascaro,

Aviation Director

Phone: (480) 312-7735

INFORMATION

Discussion and input regarding status of the Airport Advisory Commission's 2011 items to City Council, and aviation-related items approved by Planning Commission, Design Review Board, or City Council.

Attachment(s): 1. Airport Advisory Commission Items to City Council -2011

- 2. Aviation-related items to Planning Commission, Design Review Board, or City Council-2011
- 3. City Council Meeting Calendar 2011

AIRPORT ADVISORY COMMISSION AVIATION ITEMS TO CITY COUNCIL 2011

APPROVED	Approved 7-0	Approved 7-0	Approved 7-0	Approved 7-0	Approved 7-0
COUNCIL	1/25/11	1/25/11	5/17/2011	8/23/2011	8/23/2011
ITEM DESCRIPTION	Use of Airport Land to Support Air Traffic Operations Adopt Resolution 8526 Authorizing a Memorandum of Agreement between the City of Scottsdale and the Federal Aviation Administration for use of airport land for navigation, communication, and weather aids for the support of air traffic operations at Scottsdale Airport.	Runway Safety Area Enhancements Project Adopt Resolution 8527 Authorizing Construction Manager at Risk Construction Services Contract 2010-201-COS at a Guaranteed Maximum Price (GMP) of \$1,718,443.00 with J. Banicki Construction for the Runway Safety Area Enhancements Project at Scottsdale Airport.	Adopt Resolution No. 8648, Authorizing Construction Bid Award J. Banicki Construction, Inc., the lowest responsive bidder, at the bid amount of \$1,454,220.10 for the Scottsdale Airport Apron Reconstruction project.	Amend Airport's Primary Guiding Documents Adopt Resolution No. 8721 and Ordinance No. 3950 amending Chapter 5, Aviation, of the Scottsdale Revised Code, Airport Rules and Regulation, Airport Minimum Operating Standards, Airpark Rules and Regulations, Airpark Minimum Operating Standards and the Scottsdale Airport/Airpark Rates and Fees Schedule that addresses an overall review and modification of the airport's primary guiding documents to help foster the long term economic health and enhance the safe operating environment at the airport/airpark.	Adoption of Resolution No. 8781, Authorizing Construction Bid Award to the Lowest Responsive Bidder to construct Phase 3 of the Airport Parking Apron Reconstruction Project
APPROVED	0-9	0-9	5-0	5-2	5-0
AIRPORT COMMISSION DATE	1/12/11	1/12/11	4/13/11	7/13/11	8/10/2011

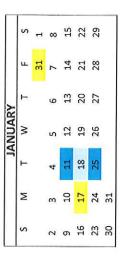
APPROVED						
CITY	10/18/11	10/18/11	10/18/11	10/18/11	10/18/11	10/18/11
ITEM DESCRIPTION	6-GP-2011 Zocallo Residential - Discussion and possible action to recommend a request by owner for a Non-Major General Plan Amendment to the Greater Airpark Character Area Plan Future Land Use Map from Airpark Mixed Use (AMU) to Airpark Mixed Use-Residential (AMU-R) on a 6.42 +/- acre site located at 15440 N. Greenway-Hayden Loop, near the northwest corner of N. Greenway-Hayden Loop and N. 73rd Street.	Development Near the Airport 10-ZN-2011 Zocallo Residential - Discussion and possible action to recommend a request by owner to rezone from Highway Commercial District (C-3) zoning to Planned Unit Development (PUD) District zoning including amended development standards for Average Setback, on a 6.42 +/- acre site located at 15440 N. Greenway-Hayden Loop, near the northwest corner of N. Greenway-Hayden Loop and N. 73rd Street.	Development Near the Airport 7-GP-2011 Scottsdale Airpark Community - Discussion and possible action to recommend a request by owner for a Non-Major General Plan Amendment to the Greater Airpark Character Area Plan Future Land Use Map from Airpark Mixed Use (AMU) to Airpark Mixed Use-Residential (AMU-R) on a 12.2 +/- acre site located at 15.333 N. Hayden Road.	11-ZN-2011 One Hayden Centre - Request by owner for a zoning district map amendment from General Commercial District (C-4) to Planned Unit Development (PUD) District zoning, including approval of a Development Plan, on a 12.2 +/- acre site located at 15333 N. Hayden Road.	8-GP-2011 Crackerjax - Discussion and possible action to recommend a request by owner for a Non-Major General Plan Amendment to the Greater Airpark Character Area Plan Future Land Use Map from Airpark Mixed Use (AMU) to Airpark Mixed Use-Residential (AMU-R) on a 32 +/- acre site located at 16001 N. Scottsdale Road.	Adoption of Resolution No. 8843, authorizing contract 2011-121-COS with Ciao Baby Catering, LLC d/b/a Zulu Cafe to enter into a restaurant lease agreement at Scottsdale Airport Terminal Building
APPROVED						
AIRPORT COMMISSION DATE	10/5/11	10/5/11	10/5/11	10/5/11	10/5/11	10/5/11

AVIATION-RELATED ITEMS TO PLANNING COMMISSION, DESIGN REVIEW BOARD OR CITY COUNCIL (Projects that may be on airport, have taxilane access, have height implications, or have sensitive noise uses) 2011

APPROVED	Approved 7-0 Approved 7-0	Approved 7-0	Approved 7-0	Approved 5-0	Approved 6-0 Consent
PLANNING, DRB, OR CITY COUNCIL AGENDA DATE	PC – 2/10/11 CC – 3/22/11	DRB - 4/21/11	DRB - 4/21/11	PC- 7/13/11 CC- 8/23/11	PC – 8/10/11 CC – 9/13/11
ITEM DESCRIPTION	3-AB-2009 Westcor Aviation - Request by applicant for approval for the abandonment of approximately 179 feet of an access road / taxi-lane located east of N. 73rd Street and south of E. Greenway Road with Industrial Park District (I-1) zoning. (The request was modified by the applicant to extend the time to fulfill the conditions for the abandonment.)	57-DR-2006#2 Children's Learning Adventure - Request approval of the site plan, building elevations, and landscape plan for a new child day care facility, with 20,674 sq. ft. of building area, on a 2.3 acre site.	10-DR-2011 Cocopah Middle School - Request approval of the site plan, landscape plan, and building elevations for a multi-phase renovation of an existing public education campus, including demolition of several existing buildings, remodel of one existing building, and construction of four new buildings, comprised of 116,705 sq. ft. of building area on a 19 acre site.	26-UP-2010 Scottsdale Preparatory – Requesting a use permit to expand their outdoor court and recreation area on the east side of the property. This property is in AC-1, and is outside the 55 DNL.	8-ZN-2011 Tres Compadres – Request by applicant for a zoning district map amendment from Industrial Park District (I-1) zoning to Central Business District (C-2) zoning on a 2 +/- acre site located at 7301 E. Butherus Drive. Request by applicant for a Conditional Use Permit for a Bar use at an existing 19,354 +/- square foot restaurant located at 7301 E. Butherus Drive with Central Business District, (C-2) zoning.
APPROVED	V/A	N/A	N/A	NA	¥.
AIRPORT COMMISSION DATE	N/A	N/A	N/A	A A	Z Z

APPROVED	Non-action Rescheduled	
PLANNING, DRB, OR CITY COUNCIL AGENDA DATE	PC – 7/13/11 8/10/11 CC – 8/29/11 CC- 10/18/11	CC - 10/25/2011
ITEM DESCRIPTION	19-ZN-2002#2 Crossroads East - The Arizona State Land Department is requesting to amend the land use and stipulations for the Crossroads East Planned Community District, east of Scottsdale Road and north/south of the Loop 101 freeway. The change would accommodate additional retail uses including auto sales, and adjust the number of allowed residential units - thus providing consistency with areas adjacent to this property.	2011 General Plan Update - Arizona Revised Statutes requires each city adopt a comprehensive, long range General Plan.
APPROVED	NA	N/A
AIRPORT COMMISSION DATE	NA	1/12/11

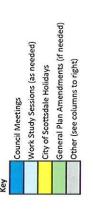
2011 -- City Council Meeting Calendar



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January - 11 New Council Sworn; 17 MLK Holiday January - 1 New Year's Day (Observed 12/31)

February - 21 Presidents Day

March 12-16 NLC

May 17 - Tentative Budget Adoption

May 30 - Memorial Day

April - 18-26 (Sundown) Passover

September - 1-2 League Conference; 5 Labor Day; 28-30 Rosh Hashana October - 7-8 Yom Kippur; 25-27 Major General Plan Amendments December - 20-28 Chanukah; 26 Christmas (Observed) November - 8-12 NLC; 24-25 Thanksgiving August 30-31 League Conference